INTERNATIONAL HANDBOOK OF CRIMINOLOGY



Edited by

Shlomo Giora Shoham
Paul Knepper
Martin Kett

CRC Press
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Preface

The study of crime and the response to crime has become international. Judging by the increase of books and articles concerning "transnational" crimes, the effects of "globalization," and the "internationalization" of response, international criminology has emerged. This field has seen developments in theoretical frameworks, methods of inquiry, and policy responses.

The *International Handbook of Criminology* seeks to provide a substantive guide to essential and emerging issues. It brings together leading criminologists from centers of criminological study in Europe, the Americas, the Pacific, the Mediterranean, and Australasia. The nations represented by contributors include Australia, Brazil, France, Germany, Italy, the Netherlands, Norway, Malta, the Philippines, Switzerland, the United Kingdom, and the United States. The contributors renew important debates, identify emerging issues, and explain the implications of recent trends. Collectively, the chapters engaged in comparative and international criminology.

The chapters are divided into five sections. Section I deals with theoretical and historical frameworks. In this section, Ken Pease provides an introduction to crime science, Neil Davie examines the legacy of biological theories, Arjan A. J. Blokland and Paul Nieuwbeerta discuss life course criminology, and David Nelken addresses comparative criminal justice. Section II concerns methods of inquiry. Heidi Mork Lomell explores the politics of crime statistics, Albert Bell examines strategies for examining subcultures, Madelaine Adelman provides an anthropological understanding of the importance of context in the study of domestic violence, and Marcelo F. Aebi explains methodological issues in cross-national comparisons of crime.

Sections III and IV discuss crimes of special interest and aspects of the response to crime. Rob White takes up transnational and environmental harm, Joachim Obergfell-Fuchs addresses perpetrators and victims of sexual offenses, Michael Levi examines financial crimes in comparative context, and Filomin C. Gutierrez provides an in-depth look at "the criminal" in early twentieth-century Philippines. Murray Lee explores affluence and disadvantage in relation to fear of crime, Clive Norris looks into surveillance in society and the rise of closed-circuit television, Chris Grover explains the links between crime and social policy, Gray Cavender and Nancy C. Jurik critique media representations of crime and gender, Megan O'Neill analyzes the police function, and Rossella Selmini explains crime prevention across Europe.

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The final section, Section V, analyzes crime, victims, and social divisions. Jukka Savolainen takes a closer look at class, inequality, and the etiology of crime; Juanjo Medina Ariza explores youth gangs in a global context; Edna Erez and Julian V. Roberts examine victims in the criminal justice process; Circe M. G. Monteiro presents a look at street crimes from the perspective of spatial analysis; and Anthony E. Bottoms and Andrew Costello provide a discussion of repeat victimization informed by their research.

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Even with three of us working together as editors, this volume would not have come together without the support and encouragement of a number of people. Our thanks to all the contributors for responding to our invitation and for making time to produce excellent work. Thanks to Carolyn Spence for believing in the project, and to Jennifer Ahringer and the expert team at Taylor & Francis for seeing us through to publication. Thanks also to Hemdat L. Israeli for impressive coordination, undying enthusiasm, and professional assistance in every way.

Finally, we would like to dedicate this volume to Professor Moshe Addad of Bar Ilan University.

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Shlomo G. Shoham is Professor of Law and an interdisciplinary lecturer at Faculty of Law, Tel Aviv University, and is a world-renowned criminologist who has published more than 100 books and about 1,000 articles on crime, deviance, philosophy, religion, psychology, and the human personality. Over the years, he has developed his innovative personality theory, a highly appraised new theory of personality development. In 2003, Professor Shoham was awarded the Israel Prize for research in criminology. Previously, he was awarded the Sellin-Glueck Award, the highest prize in American criminology, and recently the prestigious Emet Prize. He is the recipient of a decoration from the prime minister of France. Professor Shoham has lectured all over the world and has been a resident at the universities of Oxford, Harvard, and the Sorbonne.

Paul Knepper is Senior Lecturer, Department of Sociological Studies, University of Sheffield, and Visiting Professor, Institute of Criminology, University of Malta. His research has explored sociopolitical definitions of race, conceptual foundations of crime prevention, and historical origins of contemporary responses to crime.

Martin Kett is a self-employed technical writer and translator. He received a BSc in mathematics and statistics from Bar-Ilan University, Israel.

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Introduction

SHLOMO G. SHOHAM AND PAUL KNEPPER

The *International Handbook of Criminology* provides a substantive guide to state-of-the-art research and theory in criminology. Individual chapters provide an introduction to emerging discussions, or describe the latest developments in staple topics, and collectively present a view of criminology informed by comparative analysis. The chapters are arranged into five broad areas: theoretical and historical frameworks; methods of enquiry; crime and criminality; responses to crime; and crime, victims, and social divisions.

The chapters in Section I review emerging theoretical approaches to the etiology of crime, the legacy of a founding theorist in criminology, and the conceptual basis for the study of comparative criminal justice. The opening chapter by Ken Pease describes the field of crime science. While crime science has been associated with situational crime prevention, the aims and scope of this field are much larger. The advocates of crime science take the view that criminology has become successful as a discipline, but this very success now thwarts its ability to address the most significant issues of crime. Crime science pursues a novel or alternative approach that avoids the limitations of disciplinary thinking in favor of an interdisciplinary approach derived from "unframed science." Pease offers several examples of the "failure of conventional problem framing" and outlines the challenges and opportunities facing crime science as a rival to traditional pursuits in criminology.

Neil Davie explores "criminal anthropology," which supplied the initial platform from which contemporary criminology emerged. He explains the precursors to Cesare Lombroso's "criminal man," including phrenology, atavism, and degeneracy, and the ways in which later generations of criminologists, beginning in the first decade of the twentieth century, discounted these ideas as a means of advancing their projects. What Davie shows is that despite routine and frequent criticism of Lombroso's work, a key aspect of Lombrosianism remains. Although the conceptual terminology has changed, along with the research techniques, current researchers in biological criminology share with their nineteenth-century predecessors an underlying assumption that some and possibly many offenders "are impelled to commit crimes by hereditary impulses beyond their control."

In their chapter on life course criminology, Arjan A. J. Blokland and Paul Nieuwbeerta describe an area of criminology that has flourished within the past 20 years. As they explain, life course criminology takes up three tasks: describe developments within individual criminal behavior over time, explain why these developments occur, and, where possible, describe and test

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the consequences of interventions (aimed at redirecting individuals away from criminal behavior). They review the studies from which life course criminology emerged, data and methods used in the study of the life course, the empirical support for criminal trajectories, and the problems associated with efforts to redirect these trajectories. They conclude with some reflection on the current state of life course criminology and identify the most promising areas for future research.

David Nelken examines the basis for comparative research in criminal justice. Although comparative analysis holds out the prospect of rich rewards in grasping crime problems and finding meaningful policy solutions, it confronts two major challenges: ethnocentrism and relativism. Ethnocentrism presumes that what *we* do, our way of responding to crime, is universal, or it would be right for everyone else. Relativism takes the view that we can never understand what others are doing and that there can be no basis for evaluating whether what others do is right. He engages the discussion of punitiveness and leniency in imprisonment across states and then takes a closer look at the situation in Italy. He insists that comparative research based on the same, familiar countries is likely to yield more of the same, reliable conclusions. In examining the Italian case, he shows that while it is more difficult, it is also potentially more valuable to learn from countries with different systems and practices. Nelken concludes with the evocative claim that "the best practice to learn from will not always be that with the best practice."

The chapters in Section II explore sources and strategies for knowledge acquisition in criminology. Heidi Mork Lomell examines the usefulness, and uses of, crime statistics. She discusses the issues surrounding official crime statistics, including the dark figure reporting, recording, and counting rules and some alternatives to the official source, that of self-report studies and victimization surveys. She also explores the wider politics of numbers within government policymaking about crime. Attempts to rely on statistics for policy decisions remain subject to several problems, including tunnel vision, myopia, misrepresentation, misinterpretation, and gaming. While it is impossible to obtain a "true measure of crime," official statistics can yield knowledge of crime patterns and trends. And, by making use of self-report studies and victimization surveys along with official statistics, it is possible to achieve triangulation. Overall, her examination demonstrates that crime statistics not only provide "a *means* of analysis" but also should be "the *objects* of analysis."

Albert Bell provides an in-depth review of one of the most important concepts in criminological analysis: subculture. The subculture concept, so important to sociology, can be traced to classic criminology and cultural deviance theory. His review examines the inheritance from Émile Durkheim, adaptations by Thomas Merton, Albert Cohen's subculture theory, and American deviancy theory of the postwar era. By looking back at the

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origins of subculture theory, it becomes possible to sharpen and reinvigorate subculture analysis in criminology. Bell concludes, contrary to postmodern theory, that subculture remains important for explaining social behavior even within a stratified global economy. He also finds that while the concept would benefit from further revision, the basic elements of subculture theory, such as the notion of subculture identity, remain intact.

Madelaine Adelman looks at domestic violence; specifically, she examines anthropological studies of domestic violence. At the center of the anthropological approach to crime is the idea that meanings and manifestations of crime are constituted as part of the social construction of identity and power and that claims for justice have been preshaped by cultural contexts and transformed by social actions in institutions such as courts. Understood in this way, anthropology has the potential to "inform, and perhaps transform" the understanding of such crimes as domestic violence. Adelman describes the anthropological approach and how anthropologists have studied domestic violence. She spotlights the most recent contributions to the study of domestic violence by anthropologists and gives examples of promising approaches. "Anthropological approaches," Adelman suggests, "can complement, as well as critique, extant studies of domestic violence by drawing scholarly and policy attention inquiries based on meaning and experience, historical and cultural context, comparison, and global connections."

Marcelo F. Aebi, who is also concerned with statistics, turns his attention to the specific problem of comparing crime statistics across countries. In order to demonstrate empirically the methodological problems resulting from international comparisons of recorded crime rates, he compares statistics in 37 European countries. Across Europe, statistical practices can be characterized by use of input, intermediate, and output statistics. This analysis supports the observation that for every kind of offense, countries using input statistics reveal higher crime rates than countries using intermediate statistics and countries using intermediate statistics show higher rates of crime than countries using output statistics. This pattern strongly suggests that statistical counting rules in each country play a major role in the explanation of differences in crime rates. While this is not encouraging for researchers interested in comparative criminology, there is a solution. "The real solution," Aebi explains, "would be to introduce more detailed crime statistics—such as the ones used in Sweden—in every country."

The chapters in Section III deal with specific forms of crime or criminal behavior. Rob White explains "transnational environmental harm," which involves such activities as illegal dumping of toxic waste, illegal trade in radioactive substances, and proliferation of waste from disposal of computers and equipment. Through the lens of "green criminology," he clarifies approaches to, and types of, harm to the environment. Green criminology concerns the study of environmental harm, environmental laws, and environmental

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regulation. White's chapter delineates three approaches to the study of environmental harm and charts the links between environmental harm on a global scale and the nature of contemporary capitalism. It also provides a discussion of "transnational," specifically, the ways in which criminologists have approached harms that go beyond conventional street crimes and those bound by national or regional borders. He concludes by offering a sense of the tasks ahead for the development of a critical criminology that is truly global in scope.

Joachim Obergfell-Fuchs focuses on perpetrators and victims of sex crimes. As he points out, across Europe and North America in recent years there has been a great deal of media interest in sex crimes and in dealing with sex offenders. Obergfell-Fuchs's discussion examines the extent of sex crimes with a look at sources of statistical information and patterns of offending, including sexual harassment in the workplace. Although sexual violence seems quite prevalent in modern societies owing to recurrent media reports, the rate of sex crimes has decreased during the last century. The discussion also explains the challenges of dealing with sex crimes within the criminal law and reviews methods of dealing with sex offenders with a particular focus on the issue of recidivism. In some countries, the United States, for example, the response has been to concentrate punishment on the offender by locking up offenders for a long time and to engage in public labeling to alert people to the potential for further crimes on release. There is criminological research to show that successful treatment of sex offenders is possible, although there remain considerable methodological limitations in the explanatory power of results so far.

Michael Levi reviews financial crimes in comparative context. Crime in the business sector has always presented criminologists with difficulties of terminology and boundary setting. The term *financial crime* is increasingly used to overcome the limitations of such terms as *white-collar crime* and *economic crime*, although it is neither a legal nor a well-defined concept. Levi clarifies types of, extent and costs of, responses to, and punishment of financial crime. He goes on to explain approaches to sentencing in serious fraud cases and describes practices concerning sentencing of fraud across continental Europe and the United States. So long as potential offenders perceive they will have a low chance of conviction and a light sentence for complex frauds involving vast sums of money compared with other types of crime for economic gain, financial crime is likely to persist short of an intentional shift of policy objective. Levels of regulation of financial crimes tend to lurch from one extreme to the other as scandals—in the 1930s, 1980s, and 2008—have been met with prosecutions and tighter prevention. Globalization has created special challenges for international cooperation to pursue both offenders and their proceeds.

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Filomen C. Gutierrez uncovers cultural forces at work in the production of "scientific knowledge" of crime with a historical look at the study of criminal offenders in the Philippines. Her chapter covers the transition in Philippine criminal justice from the Spanish period of the late nineteenth century through the American period in the early twentieth century. She describes Filipino criminologists' scientific projects based on analyses of crime records and clinical studies using anthropometric measurements, and she examines the research projects of American scholars concerned with anthropometric research for anthropology and efforts to develop tropical medicines. It is clear that the positivist science of European and American criminology reached the shores of the Philippine Islands and informed recordkeeping practices at the state prison. But not only did the prison become the site for study of the criminal body within early criminology, it also enabled study of the Filipino body within the colonial context. Further, Gutierrez's work points to the role of intellectual biographies in understanding the formation and application of criminological knowledge in society.

In Section IV, the chapter topics cover different responses to crime ranging from fear and media, to closed-circuit television (CCTV) and social policy, to police and crime prevention. Murray Lee considers the "fear of crime." Fear of crime has attracted attention from criminologists since it was first "discovered" in the United States following implementation of the first widescale victimization surveys during the 1960s. Lee concentrates on whether socioeconomic disadvantage is correlated with fear of crimes or is largely the result of methodological and conceptual devices used to study perceptions of crime. He proposes that "in wedding fear of crime to disadvantage and disorganization, we as researchers are missing or rendering invisible one of the principle drivers of fear of crime … that is the relative affluence and the conspicuous consumption that goes with it." If we perceive fear of crime as discursive, rather than "a psychosocial quasi-objective phenomenon," the question of who fears crime and who drives fear-of-crime discourse becomes less clear but much more interesting.

Clive Norris looks at the development of CCTV in Britain and its implications for privacy. He reviews public opinion concerning CCTV, reports on evaluations of CCTV, and assesses CCTV capabilities within a broader framework concerning contemporary regulation of public space in cities. In his discussion, he identifies five ways camera surveillance differs from face-to-face human observation: how the "gaze" is destroyed, the lack of human interaction, recording and storing of images, inability to move out of surveillance zones, and collection of information concerning the human form. Taken together, these differences establish an "asymmetry of power between the watcher and the watched." Norris concludes with suggestions about what mechanisms might be put into place as a counterweight to this imbalance.

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These have to do with rights that citizens should expect to have concerning notification of CCTV surveillance and use of imagery, regulation of CCTV system operators, and reporting requirements concerning their operations.

Chris Grover investigates the relationships between welfare-oriented and crime-oriented concerns, an issue at the center of a great deal of policy discussion in criminology. He explains the rationale and scope of social policy (welfare support) and examines the links between social policy and crime. These links can be seen in two substantive social policy areas, that of income maintenance and housing policy and their significance in relation to crime and antisocial behavior. In the final section of his chapter, Grover calls attention to the issue of "criminalization of social policy," which occurs when the boundaries of crime control and social policy converge. He concludes that the British government is concerned with tackling offending and antisocial behavior, but it would be more fruitful to concentrate efforts on reducing levels of inequality rather than attempting to reshape the character and behavior of individuals by means of welfare programs.

Gray Cavender and Nancy C. Jurik explore the overlap between criminology and the crime genre, that is, generations of fictional police detectives, private detectives, and citizen detectives trying to ferret out criminal mysteries and arrive at the truth necessary for justice. Criminologists have tended to complain about inaccurate depictions of crime in crime news and fiction, but the experts have rarely "analyzed the cultural dynamics through which they were produced or the insights the depictions offered into contemporary cultural issues." Their chapter provides an overview of the crime genre on American and British television using several series that exemplify some of the major trends in thinking about crime and crime policy. They pay particular attention to constructions of gender and race in relation to pursuit of truth, reality, and justice. Cavender and Jurik argue that criminologists should study the crime genre because the images it contains shape citizens' understanding of not only the aetiology of crime but also the solutions to the crime problem. They offer a model of "progressive moral fiction" to facilitate a progressive criminological pedagogy, one that fosters, not cynicism and despair, but aspirations that promote social justice.

Megan O'Neill covers the police response with a focus on recent innovations in policing methods in the United Kingdom and the United States. Most of these innovations have been designed to move police away from traditional, enforcement-oriented approaches to methods along the lines of community-oriented policing. The leading model in England and Wales, "neighborhood policing," represents a more precisely managed and more heavily resourced method than the sketchy and less well-resourced American experience with the community-oriented approach. "Zero tolerance policing," initially viewed as a type of community policing, has tended to be more reactionary and enforcement driven, which raises questions about

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whether some police efforts to engage the community do more to damage than improve police-community relations. She finds that while the intention behind many innovations in policing methods has been admirable, their implementation has brought about serious problems-involving multiple and overlapping methods often in conflict with performance targets imposed from the top of police hierarchies. To pursue genuine and sustainable change consistent with the goals of community and neighborhood models would require engaging police officers directly in strategic decision making as part of a dramatic commitment to changing police organization from central government.

Rossella Selmini reports on crime prevention. It represents one of the most relevant subjects in the debate in recent decades among academics interested in international criminology and within governments of Western democratic states in relation to crime policy. Drawing on the European context, she provides a general overview of issues related to crime prevention. She examines whether the "new" crime prevention implies new theories of crime and looks at classification of crime prevention strategies, specifically, situational, social, community, and risk focused. Looking at crime prevention from a comparative perspective makes clear a process of "homogenization" across Europe: the new crime prevention has been seen as the answer by governments of "high crime rates societies." Emerging issues in crime prevention concern changes and decline of social crime prevention, the permanence or sustainability of crime prevention, and the increasing pertinence of administrative regulations to achieve crime prevention goals.

Chapters in the final section of the book, Section V, deal with issues of crime in relation to class, urban space, and youth. These represent key social divisions related to crime (along with gender and ethnicity). This section also includes crime victims in relation to criminal justice and victims in relation to patterns of offending.

Jukka Savolainen engages the longstanding and widespread contention within criminology that class represents a significant explanation for crime. Social conditions like poverty, inequality, and joblessness are assumed to increase crime, and the socioeconomic composition of the prison population appears to confirm this. This, however, is not enough to settle the matter, Savolainen points out. It could be the other way around: criminal tendencies may prevent people from completing education, showing up for work, and so on. It may also be the case that systematic bias within criminal justice processing results in overrepresentation of socially and economically marginalized groups in prison. He reviews leading theoretical models of class and crime and recent empirical evidence from self-report studies and cross-national research. Based on this review, it is clear that there is a "strong association between chronic poverty and serious street crime." Nevertheless, social class is not related to crime in a "steady, linear, or incremental fashion,"

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but instead there is a sharp difference between "'the truly disadvantaged' and the rest of the population." At the same time, it is important to keep in mind that no credible theory insists that class operates as a direct cause of crime. This being the case, criminologists interested in class would be advised to spend more time developing an understanding of intermediate or mediating processes rather than worry about the contribution of class to crime per se.

Juanjo Medina Ariza examines gangs within a global context. Despite the extended significance of gangs within American criminology, the conceptualization of "gang" remains highly contested. This is particularly true in Europe, where researchers and policymakers have only recently taken up this language and many remain unconvinced of the policy usefulness of the idea. Despite this reticence, there are reasons to conclude that elements of so-called gang culture have entered into youth culture around the world, that gang involvement limits mobility of individuals, and that gangs or gang-like groups negatively impact communities in which they exist. Ariza sifts through the problems of definition and explains gang involvement, gang-based offending, and gang formation. He also considers interventions and cross-national comparisons. In the final section of his chapter, he spells out what we have learned from cross-national studies of gangs and explains why the study of gangs in international contexts remains a challenging and relevant undertaking.

Edna Erez and Julian V. Roberts describe the role of the victim in criminal justice system over time and report on relevant reforms within U.S and other key common law jurisdictions. They present legislation recognizing the rights of victims at stages within proceedings and describe specific points of engagement of victims. Erez and Roberts devote particular attention to sentencing, which, as they point out, represents the apex of the system and the point at which victims' interests are the keenest. As a result of several developments, including the rise of restorative justice and therapeutic justice approaches, victims in common law jurisdictions have more input into the criminal justice process than was true decades ago. Research findings indicate that victims' rights can be helpful to victims desirous of participation in criminal justice and the fact of their participation does not necessarily lead to problems limiting the efficiency of the system. But victim's contribution, particularly at sentencing, continues to be met with resistance on the part of those within the system who believe otherwise. Victims will likely continue to become integrated in proceedings although legal cultures will remain dominated by underlying values and ideologies that shape the nature of the integration.

Circe M. G. Monteiro delivers spatial analysis of street crimes focused on urban environments. Street crimes are among the category of crimes to have increased in recent years, with and the highest levels of street crime taking place in cities experiencing rapid growth. This means that cities in

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developing countries experience higher levels of criminal victimizations than those in the developed world. Street crimes take place in public spaces within cities and involve as victims persons from every social category. Monteiro brings spatial studies to the understanding of factors that facilitate street crime. Her analysis incorporates historical and theoretical perspectives on the space-crime relationship and develops the "social logic of space and crime." She goes on to provide an inventory of relevant factors, including accessibility and movement, density, land use, constituency, interface, and lighting. "Understanding the spatial components of criminality allows us to see exactly how spatial segregation, in many cultures, generally goes hand in hand with social segregation, which is evident in the form of a lack of access to education, health, urban services, and other opportunities in life."

Anthony E. Bottoms and Andrew Costello investigate the phenomenon of "repeat victimization," which refers to the same person or property being revictimized within a specified timeframe. Analyses of this pattern have been drawn from victimization surveys and recorded crime information but have tended to examine short-term patterns (between 12 and 15 months). Using a unique data set from Sheffield, a city in the north of England, incorporating information about victims and offenders, they examined long-term trends in repeat victimization. Specifically, they examine patterns of domestic burglary repeat victimization over a period of some nine years, distinguishing between short-term and long-term risk. They point to the need for more research in this area and suggest that policy implications are not simple. While there is research to suggest that repeat victimization for household crime is concentrated in poor areas, the distinction that emerges between short-term and long-term patterns of repeat victimization suggests that crime prevention should not automatically encourage the idea that households in the most deprived areas represent "long-term chronic" risk.

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Theoretical and Historical Frameworks

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Crime Science

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1.1 Introduction

It is perhaps strange that a handbook on criminology contains a chapter such as this, because it contends that criminology, as it is generally studied and practiced, has not advanced the understanding of crime and criminality as much as one might have wished; that it is not currently much studied or used by practitioners; that the direction in which it is moving is not likely to enhance its value; and that therefore the study of crime should be rebadged in an attempt to engage a wider range of disciplines and identify between-discipline synergies in the study of crime and its prevention. The chapter will seek to justify such disengagement from criminology by reference to the current condition of that discipline and the organizational consequences of the mindset underpinning it, provide some examples of the ways in which engagement with other disciplines would be productive, and identify some confusions about what the emergent discipline amounts to.

1.2 The Downside of Disciplines

Science is organized into disciplines. The *Merriam-Webster Online Dictionary* defines *discipline* as "a field of study" and "a rule or system of rules governing

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conduct or activity" [Merriam-Webster Online, 2008]. Discipline boundaries provide a convenient means of segmenting the natural and social worlds. Such segmentation is unfortunate in its consequences but necessary, since for the last four centuries at least, the extent of human knowledge has outstripped the capacity of any one person to absorb it, thereby frustrating the aspiration to be a universal scholar. Disciplines are useful in organizing education, with schools teaching required subjects and universities having their degrees labeled so that students can choose areas of study that they believe they are likely to find congenial and whereby prospective employers can identify the topics in which job applicants can be presumed to display some competence. Discipline boundaries are also useful in grouping together techniques and knowledge that optimize performance in a profession or offer the best prospect of advancing understanding. Accordingly, medical degrees are portmanteaus of knowledge derived from disciplines as diverse as anatomy and statistics. Degrees in pharmacology, by contrast, are more focused on substance effects, with an underpinning derived from organic chemistry. The second element in the Merriam-Webster definition suggests that there should be standards, most obviously in terms of ethics and/or methodology, to which those engaged in a field of study should adhere.

The cognitive structures into which thinking is organized are known to psychologists as frames. Frames limit cognitive commerce. Thus the primary disadvantage of organizing the study of the natural and social worlds into disciplines is that the frames come to act as artificial barriers to thinking. It is difficult to overstate the importance of framing in the organization of knowledge. Problems are "framed" in ways that make them susceptible to the skills of the framer. The old adage that to someone with a hammer, everything looks like a nail, puts the matter crudely but clearly. Creativity is in large measure the capacity to combine frames or apply unusual frames to problems. Unusual ways of framing are often productive. This is sometimes known as *bisociation* [Koestler, 1964].

The point can be made by reference to the Wright brothers' struggle toward powered flight. Their rivals had "considered propeller design within a marine engineering frame." The Wright brothers framed it otherwise:

> A propeller moves a ship by displacing a volume of water. It bites into the water like a corkscrew moving into a cork as it rotates. And many of the Wrights' predecessors (and successors) supposed that an airplane's propellers should be a flat blade that could cut into the air. But, unlike water, air is highly compressible. Perhaps a propeller should not be flat. The brothers drew a brilliant analogy.… A propeller is a wing travelling in a spiral course. The analogy depends upon envisaging a model of a wing, carrying out a mental rotation, and observing that it corresponds to half of a rotating propeller. As the wing rotates, it generates not lift but thrust. A flat blade … does not generate much thrust. The blade should instead be cambered like a wing, and

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> the principles for life apply to the thrust of propellers, too. [Johnson-Laird, 2005:16–17]

Another reframing was crucial to the Wright brothers' success. When not pioneering powered flight, they ran a bicycle repair shop. Bike riders have to lean into corners. Aircraft, likewise, should tilt while turning or they risk plummeting. This was an insight their competitors had not fully grasped. While the premium was on *level* flight, the difficulties of control were much greater. The bicycle frame (no pun intended) liberated their thinking.

In design, frames seem ubiquitous. Typically, new products are devised and constructed in terms of frames applicable to extant technologies. Early motor cars, designated "horseless carriages," look exactly like that. Quotations from scientists pronouncing the impossibility of flight, rocket power, the dismissal of the motor car as a fad, the projected world market for only five computers, and the military requirement for a mechanical horse rather than a tank [Dixon, 1976] all attest to the power of inappropriate framing, ridiculous only with hindsight. Indeed, there is a case for arguing that most of the examples in the Dixon book on military incompetence may be thought of as inappropriate framing of a presenting problem. The father of I. K. Brunel, the saintly and brilliant Marc,* reflecting on the improvements to marine steam engines suggested to the British Admiralty that his machinery could be fitted in a steam-tug that could haul their sail-driven warships in and out of port. Their lordships were appalled at the thought of all that soot falling on the clean white sails of British men-o'-war and replied sternly, considering it their "bounden duty to discourage the employment of steam vessels as they consider the introduction of steam is calculated to strike a fatal blow at the naval supremacy of the Empire" [Vaughan, 1991:10].

Sir Frank Whittle's failure to gain support for the development of the jet engine was perhaps the most potentially catastrophic example of the persistence of archaic framing among those in authority. As his obituary in the *Daily Telegraph* on August 10, 1996, notes:

> Although [the 1941 first test flight of a jet powered aircraft] was a moment of triumph for Whittle, it was tinged with some bitterness, for he had had to overcome years of obstruction from the authorities, lack of funding for and faith in his brilliant ideas. He felt, with justification, that if he had been taken seriously earlier, Britain would have been able to develop jets before the Second World War broke out.

* His reward for his major contributions to success in the Napoleonic Wars by the mass production of waterproof boots for soldiers and blocks for the rigging of sailing ships was tardy payment by the government and consequent imprisonment for bankruptcy (see Vaughan, 1991).

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Once framed, disciplines take on a life of their own, with loyalties to same-framers and suspicion of different-framers. Jonathan Swift (1725, in *Gulliver's Travels*) depicted a war caused by differences in opinion about which end of a boiled egg should be cracked to open it.* His insight about the passions excited by narrow framing has been amply evidenced by social psychologists, and recently and eloquently reviewed by Philip Zimbardo [2007], whose view of the centrality of perceived differences in the origin of human conflict justifies his book title *The Lucifer Effect*. The hostility of Protestant and Catholic Christians to each other, and the mutual hatred of Sunni and Shi'ite Muslims, seems utterly ridiculous. The insistence of a close relative's Glaswegian Catholic father that she must never bring a Protestant boy home leaves open the possibility of a welcome for Satanists and atheists. It seems that narrow framers tend to see their worst enemies just outside the frame.

A further problem with framing is that, by its nature, too little may be known by any individual of matters outside his or her frame to challenge extra-frame mysteries, without a major process of self-instruction. Short-selling, hedge funds, and other arcana have contributed to the financial crisis that is deepening at the time of writing. These matters were extra-frame for everyone except a select group of quantitative economists and hence remained widely unexamined.† The writer reads accounts of the Higgs boson, dark matter, Boltzmann brains, and entangled particles and marvels. These are unobserved or inferred features of cosmological theory, and I believe in them—on the basis not of any understanding but, given the lack of time to acquire the necessary expertise, of confidence that cosmologists probably know what they are talking about. Frames thereby protect that which is framed from critical scrutiny by outsiders. Practitioners of medicine and fundamentalist religions seem particularly favored in this way.

Universities consist of functioning units labeled with discipline titles. Such units usually inhabit particular buildings, and people within these units interact with each other far more than with colleagues elsewhere in the same university. As long as a unit runs courses in a subject that continue to enroll students, whose staff have qualifications in that subject and a vested interest in the way in which it is currently framed, and where the discipline is not entirely discredited (necromancy and alchemy courses are no longer taught in UK universities), such disciplines will be resistant to attempts at reframing. Applications for research funding will be assessed by senior

* In fact, Swift's creativity in general is the result of ingenious reframing, as, for example, when in 1729 he reframed children as food to solve two problems at once: cruelty to children and overpopulation. Raising children as livestock, he argued, would lead to reasonable standards of care. Preventing them from reaching maturity would limit population.

† An exception should be made for Richard Dale, whose 1992 book, *International Banking Regulation: The Great Banking Experiment*, was prescient. His experience illustrates the fact that within-discipline frames can exclude the brilliant maverick.

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academics whose careers reflect success in the disciplines whose frames will suggest what is promising (intra-frame) and unpromising (extra-frame). Just as Frank Whittle's vision was judged by those with investment in propeller-driven airplanes, so proposals for integrative research on crime is assessed by those whose careers were spent as mainstream criminologists. Inertia conferred by traditional discipline frames and academic and institutional self-interest tend to create silos of research activity occurring in parallel, unaware of or more usually indifferent to each other, and hostile to those inhabiting adjacent frames.

1.3 Framing Criminology

The online *Oxford English Dictionary* defines *criminology* as "the science of crime; that part of anthropology which treats of crime and criminals" [OED, 2008].

One can get some crude idea of how criminology is currently framed by looking at which other disciplines are mentioned in criminology courses. An overview can be gleaned from the United Kingdom's UCAS (Universities & Colleges Admissions Service) Web site [UCAS, 2008]. It shows sociology, law, and psychology as common bedfellows with criminology. Typical is Kingston University's online description of content [Kingston University, 2008]:

> What is criminal behaviour? Why do individuals commit crime? How should society deal with criminal activity? If you are interested in these issues, Criminology, the study of crime in society, is the ideal choice. The course applies the study of sociology, psychology, politics and economics to an understanding of the major questions in law making, law breaking and law enforcement.

Coventry University [2008] advertises its joint honors sociology–criminology degree thus:

> The joint degree in Sociology and Criminology enables you to study two vibrant disciplines. Sociology occupies a central place within the social sciences and has a key role to play in today's intellectual culture. As a Sociology student you will be taught how to challenge the "taken for granted," while in Criminology you will learn about policing, the criminal justice system, the causes of crime and the ways in which societies respond to it.

The point could be illustrated ad nauseam. Most criminologists are still sociologically trained [Ellis and Walsh, 1999; Walsh and Ellis, 2003], and sociology entails "a conceptual scheme that explicitly den[ies] the claims of other disciplines potentially interested in crime" [Gottfredson and Hirschi,

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1990:70]. While the leading journal *Criminology* describes itself as interdisciplinary, its contents largely belie the claim, a point indirectly attested by the following extract from its publicity. "The most recent journal rankings from the Institute for Scientific Information identifies *Criminology* as the leading professional journal in the field of criminology (first out of 27), sixth of 96 in the field of sociology, and 29th of 101 in the field of law."

Criminology is thus unarguably framed as a discipline alongside sociology primarily, with law, psychology, and social work occupying neighboring and weakly connected silos. Other disciplines much more rarely feature as bedfellows of criminology. The academic frames are reproduced in organizational arrangements elsewhere, which is the greater tragedy. For example, the Home Office divides its science function according to discipline. Its Research, Development and Statistics Directorate is based in Central London and staffed primarily by social scientists, economists and statisticians. Its Scientific Development Branch is based some 30 miles away and is staffed by physical and biological scientists and engineers. So just as disciplines are separated during higher education, the divisions are perpetuated when real-world problems need to be addressed, to whose solution a range of approaches is relevant [see Pease, 2005].

Any attempt to reorient the study of crime by shifting discipline boundaries is not to be undertaken lightly. It smacks of arrogance. Its justification here has two elements:

1. Some of those well placed to know have begun to express doubts about the usefulness of criminology, and some of the wilder shores of criminology are proving embarrassing in polite scientific company.
2. The criminological literature shares attributes with disciplines exhibiting slow progress.

1.4 Murmurs of Discontent and the Apostacy of the Terminally Embarrassed

Public funding of research in the United Kingdom is overwhelmingly channeled through the Research Councils. The Research Council that is overwhelmingly the greatest funder of crime research is the Economics and Social Research Council (ESRC). In a forthcoming book, the journalist Nick Ross writes of his contact with the ESRC thus: "I e-mailed the Council to ask if there were 'any really obvious big breakthroughs by ESRC-funded research in criminology that warranted being listed,' and after six weeks of contemplation the reply was, 'To be honest I can not think of any specific achievements.'"

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Gary LaFree's 2006 presidential address to The American Society of Criminology was titled "Expanding Criminology's Domain." Making criminology more interdisciplinary was one of the five means whereby this expansion was to be achieved. LaFree at least recognizes the problem, although criminology imaged as a colonial power whose domain should be expanded is not the route the writer chooses to explore. It is a matter of judgment whether criminology is an old dog too set in its ways to be taught new tricks. For LaFree it is not. The present writer is less convinced. In his forthcoming book, Nick Ross notes that

> even the mainstream British Society of Criminology is increasingly embarrassed by its threadbare reputation. It has always excused its tolerance of snake oil with the claim that it embraces the whole spectrum of intellectual endeavour, but in 2006 the editor of its journal went off to start a scientific research group, and soon afterwards the president himself conceded that criminology was in, "a pretty parlous state of affairs," with its researchers, "more or less irrelevant to policymakers." [Cited in Newburn, 2006]

The argument of this chapter is that many sciences contribute to the understanding of criminal offenses and offending, and that the relevant discipline boundaries should be recast to include that which is relevant and which adheres to some of the canons of the scientific method (including ethical study) and excludes that which, however loudly it proclaims its relevance, does not. Much criminology falls into the latter category. Most families contain at least one member whose presence and behavior causes embarrassment. In some families that member has a seductive charm that makes him or her popular with more gullible relatives (until they have lived with the reprobate for a while). In the past half century, in the writer's view, the embarrassing presence has been that of so-called critical criminology, recast successively as new left realism and currently as cultural criminology. Critical criminology lives on some university campuses despite the devastating critique of Sparks [1981], and courses can still be found so titled, as at Edge Hill College, where, as noted in Ross's forthcoming work,

> the external examiners have described the Critical Criminology programme as a "unique and path breaking field of study in the UK," where "The standard of teaching and assessment remains excellent." It offers a critical, in-depth analysis of current developments in policing, punishment, prisons and crime prevention. It explores recent changes in legislation such as the Crime and Disorder Act, the Human Rights Act and anti-terrorism laws. Key issues include surveillance and police powers, the politics of imprisonment, the criminalisation of children and young people and international frameworks for rights and justice. Students can opt for specialist pathways, carrying out primary research, in Childhood and Youth, Gender Studies, Historical

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> Studies or Mental Health. The Centre's academic team has an international reputation for excellence in teaching, research and publishing. The Centre has offered MA courses since 1984 and more than 40 former students now work in universities throughout the UK.

New left realism was an intermediate form. Cultural criminology lives. Cultural criminology is a theoretical, methodological, and interventionist approach to the study of crime and deviance that places criminality and its control in the context of culture; that is, it views crime and the agencies and institutions of crime control as cultural products—as creative constructs. As such they must be read in terms of the meanings they carry. Furthermore, cultural criminology seeks to highlight the interaction between two key elements: the relationship between cultural constructions upward and cultural constructions downward. Its focus is always upon the continuous generation of meaning around interaction; rules created, rules broken, a constant interplay of moral entrepreneurship, political innovation, and transgression (see the University of Kent Web site titled "Cultural Criminology," 2008).

Cultural criminology is deemed to merit a chapter in the latest (fourth) edition of the *Oxford Handbook of Criminology,* and the recent book *Cultural Criminology: An Invitation* [2008] will no doubt sell well because of the reputation and status of its authors, although the invitation to cultural criminology is one that the present writer is disposed to decline. The central flaws of the approach have been helpfully and patiently detailed by Graham Farrell [forthcoming] in the form of a critique of an earlier journal article by one of its proponents [Hayward, 2007]. Farrell's paper supplements an earlier critique by Martin O'Brien. These exchanges promise to be the opening salvos in a longer-running debate, which Farrell regrets because he has proper work to do, and debating with proponents of an influential but vacuous creed is time-consuming.

The critiques will be rehearsed briefly, with apologies for any oversimplification resulting from brevity.

O'Brien contends [2005:599]:

1. [Cultural criminology] is characterised by important confusions over what is meant by "culture" in the analysis of deviant and criminal activity.
2. [T]he absence of detailed engagement with classic debates in social anthropology serves to undermine cultural criminology's assertion that the lens of culture provides a critical tool for understanding criminal acts.
3. [Cultural criminology] is characterised by a contradiction between its ethnographic imagination and its anthropological imagination.

All this leads O'Brien to suggest that

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> 4. [T]he absence of a detailed theoretical account of culture renders cultural criminology vulnerable to [the] charge that its practitioners represent contemporary "zoo-keepers" of deviance.

Farrell concentrates on cultural criminologists' eschewal of anything resembling the scientific method. He quotes Hayward's reaction to one short formula: "Thus is the intractable question of criminality reduced to a two-inch formula—at least for the purposes of statistical policy analysis" [Hayward, 2007:234]. Farrell [forthcoming] continues:

> There is no substantive criticism of any component of the formula or any item of substance, just a dismissal. It is rather reminiscent of Irigaray's criticism of Einstein's $E = Mc^2$ formula for "privileging what goes the fastest" [see Sokal and Bricmont, 1998:xix, 100]. Hayward's dismissal of Einstein for reducing intractable questions of physics to a *one inch* formula can only be imagined.

So, cultural criminology is averse to formulas. What, then, is its methodological underpinning?

Farrell comments on another publication written by cultural criminologists that notes that cultural criminology has been around for 15 years, but "despite many positive developments, the trajectories and methods of cultural criminology have yet to be firmly established" [Hayward and Young, 2007:103]. Nonetheless, "a core methodological component of cultural criminology is therefore the scholarly reading of the numerous texts and images that circulate and promulgate the 'story' of crime and crime control within society" [Hayward and Young, 2007:108].

So scholarly reading (except of equations) is a core method. This is offensive to other scholars in its implication that they do not read, or if they do, it is without the special lens donated to cultural criminologists that makes their reading truly scholarly. It is reminiscent of the story told by the Mormon prophet Joseph Smith, who recounted his alleged discovery of the magic lenses Urim and Thummin, which allowed the mysteries of the Book of Mormon to be vouchsafed to him, and only him.* Enough is enough. The presence of cultural criminology as an ostensibly respectable part of the discipline is ample reason to motivate those aspiring to the scientific study of crime and offending to strike out for the shore of respectability and away from a discipline that contains such stuff, and preens itself on its alleged monopoly on scholarly reading.

Is there not a case for retaining the discipline title "criminology" and battling it out from within? There is. The valuable contributions of sociology-based criminology lie in its many revelations about differential criminalization of behavior and differential enforcement by

* Readers who have seen the *South Park* cartoon ridiculing the origin of Mormonism will recall the song dismissing it as "dumb dumb dumb dumb dumb."

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circumstance and social class. The decision to leave the discipline is a judgment call and is not clear-cut. It is based on a number of factors that taken together lead us to suppose that the discipline is terminally tainted. The first is the bad odor into which empirical criminology has come by being labeled positivist. Taking Stephen Hawking's description of positivism:

> Any sound scientific theory, whether of time or of any other concept, should in my opinion be based on the most workable philosophy of science: the positivist approach put forward by Friedrich Hayek and Karl Popper and others. According to this way of thinking, a scientific theory is a mathematical model that describes and codifies the observations we make. A good theory will describe a large range of phenomena on the basis of a few simple postulates and will make definite predictions that can be tested. [2001:31]

Numerous critics argue that the approach is value loaded rather than objective, dealing with social constructs rather than scientific facts, and tied to a behaviorist view of humanity that overlooks the importance of beliefs, values, and purpose [see Encyclopedia, 2008]. Many early perspectives on crime are vulnerable to such a criticism, but the equation of positivism with such myopia is naive. The writer rejects the label "positivist" as the mark of Cain on criminologists who can and do count things. The critic has thrown out the baby of quantitative method with the bathwater of biological determinism with which it was, long ago, too often coincident.

After the detour on positivism, let us return to the troubling decision to cast off the label *criminologist*. The reasons for believing the discipline not to be progressing include the following:

1. Criminology has experienced a mushroom growth over the last decade, the fast increase causing problems in the recruitment of experienced staff.
2. Many less experienced teachers are appointed to satisfy the demand and scrabble to publish quickly enough to advance their careers. Many of those have backgrounds in critical criminology (notice the boast in the Edge Hill extract cited earlier that 40 of its MA graduates work in UK universities).
3. The easiest way to get swift publications while carrying a teaching load is to concentrate on "scholarly reading" and writing. This is rendered acceptable by the existence of such enterprises as cultural criminology. The eschewal of empirical work with its hard graft outside the ivory tower will confer an instrumental advantage in career terms so long as it remains respectable.

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4. Those climbing most swiftly up the greasy pole of academic life (many by concentrating on nonempirical work; see 3) will become influential, by dint of their impressive list of publications, in selection as referees judging applications for research funding.

One central attribute of scientists' behavior (albeit imperfectly realized even in the natural sciences) in subjects that progress involves the organization of research around emerging topics rather than extant disciplines. Small and Crane [1979:446] observed from their earlier studies of co-citations in particle physics and collagen research "a proliferation of new subjects [emerged] around core areas. In other words, growth of knowledge occurs because theories or techniques that are useful in one area are subsequently applied to new areas." The proportion of all particle physics citations that were from journals rather than books was much higher than it was for the social sciences studied (economics, psychology, and sociology). Particle physics citations were also much more recent. Sociology was the discipline farthest from particle physics in its citation patterns.

Of course, the relevance of the Small and Crane work can be questioned on two counts. First, criminology was not separately studied. Second, the differences may be a proper reflection of the matters dealt with. A systematic study of criminology along the Small and Crane lines would be helpful. Pending that, the writer's personal experience is that criminology citation patterns are similar to those of sociology journals and that the citation patterns reflect a real lack of progress in the discipline, as well as a distressing narrowness of focus. As for the notion that criminology is somehow more difficult than particle physics, this is no doubt a debating point that would say more about criminologists' amour propre than about reality.

Perhaps more telling is the emergence of hybrid disciplines and a proliferation of topic focus in natural and biological science. This is mirrored by the growth of such hybridized research units within universities as University College London's Centre for Genetics and Anthropology [UCL, 2008]. This phenomenon is reflected in even such a crude measure as journal titles, with many newer journals addressing interstitial areas (e.g., *Journal of Nanobiotechnology*), and the proliferation of new journals, many being offshoots from the original journal *Nature* reflecting areas in which development is speedy (such as *Nature Photonics*, new in 2007; *Nature Nanotechnology*, new in 2006). Examples outside the *Nature* stable include *Biodata Mining*, new in 2008; *Systems and Synthetic Biology*, new in 2007; *Computational Biology*, new in 2005. In contrast, journals with "Criminology" in their title seldom get more cross-disciplinary than an indication of their methodological focus (e.g., *Journal of Quantitative Criminology*) or their geographical base (e.g., *Asian Journal of Criminology*, *British Journal of Criminology*).

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1.5 Regrets in the Departure Lounge

The emergence of and advocacy on behalf of a fledgling tradition styling itself crime science constitutes the substance of the remainder of this chapter. The decision to champion such a discipline shift is rooted in the perception, described earlier, that the status, progress, and influence of the understanding of crime and criminality achieved by scholarship labeled criminology has, in the writer's view, been disappointing both in itself and in its application to the urgent social problems to which it is addressed. The generally unridiculed presence of cultural criminologists within the discipline means that, to paraphrase Groucho Marx, one would not want to remain in a club that would admit them as members. Something akin to a paradigm shift must be considered. This is a matter of sadness in that good empirical work has been done by criminologists and published in journals of criminology.

Arguing for a new discipline frame cutting across territory occupied by extant intellectual traditions is rash. Forensic science is well established and comprises a range of ingenious techniques to link people to places and objects. Among the social sciences, criminology and its spin-off disciplines penology and victimology have relatively long histories and are popular with students. In parts they are useful in understanding crime, and particularly in challenging assumptions about the scope and motivations of the criminal law. What might justify the gall involved in seeking to recast the whole field? The central contention and justification are that the conventional discipline framing and its consequential organizational arrangements hobble the search for understanding.

In a (typically enjoyable) e-mail debate with the rational choice theorist Marcus Felson, the writer waxed choleric about cultural criminology. Felson was more relaxed, and he expressed his relaxation in the following doggerel:

> Professors are sometimes pretentious
> And other times they are dementious
> But somehow eventually despite it all
> Academe gave something to us all.
> It takes exposure to crap and drivel
> To make our minds adjust and swivel.
> In time it sharpens the cerebrum
> So we can cut through all the tedium.

This is a tenable position, but the present writer dissented.

> It works for you, I note that truth
> But not for much untutored youth.

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They parrot stuff that they have studied
And end their courses with minds muddied.

So, the decision was made to jump ship from SS *Criminology*. That confers the obligation to be clear about how the practice of science disciplines rarely cited in criminological publications might usefully inform the more broadly framed enterprise provisionally known as crime science.

1.6 Instances across Disciplines

One advantage of recruiting disciplines around a topic focus rather than a discipline allegiance is that it tends to allow problems to be characterized in novel and heuristically useful ways because of the diversity of the mental models that disciplines bring to bear. The impulse that informs the thinking behind crime science has been referred to by Jessop and Sum [2001:89] as "post-disciplinarity." They write:

> We reject the discursive and organizational construction (and worse, the fetishisation) of disciplinary boundaries. This means in turn that we cannot describe our approach as inter- or multi-disciplinary in its aspiration—even though, *faute de mieux*, we draw on concepts, theoretical arguments and empirical studies written from existing disciplinary perspectives. Instead, we describe our shared approach as … post-disciplinary in its current intellectual implications. We are not alone in refusing disciplinary boundaries and decrying some of their effects. Indeed, among the most exciting recent intellectual developments in the social sciences is the increasing commitment to transcending these boundaries to understand better the complex interconnections within and across the natural and social worlds.

Given the criticism that positivism neglects beliefs and values, we should perhaps first instance a study that shows that perceptions and beliefs clearly shape criminal behavior.

Smith, Clarke, and Pease [2002] demonstrated the following:

- That many crime reduction programs exhibit effects too early for them to be attributed to the 'obvious" active ingredient
- That the conventional form of before-after analysis brought to bear on crime reduction initiatives serves to disguise such anticipatory effects, which seem to be very widespread
- That there exists a variety of possible reasons for anticipatory effects
- That although design of programs does not typically allow one to distinguish among the range of possible explanations, some studies appear to have effects driven by publicity/disinformation

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Instances of "anticipatory diffusion of benefits" include Barclay et al. [1997], Armitage et al. [1999], and Sallybanks [2000]. What discipline does this work belong to? Social statistics because of its concern with time courses? Psychology or criminology because offender perceptions are central? Who cares? It is an important insight that seems largely to have eluded conventional criminology.

A second example of the failure of conventional problem framing came with the advent of DNA profiling. It was introduced as a means of near-unique identification of individuals. Initially framed as genetic fingerprinting, this was unsurprising. However, there are differences between fingerprints and DNA. Fingerprints differ from digit to digit. DNA does not differ from cell to cell (with the exception of germ cells). Crucially, DNA gives clues about phenotype, so that hair color, ethnicity, and other attributes are in some cases knowable from DNA analysis. Had the development of DNA analysis proceeded along these lines, which disciplines would have been involved? Certainly it would have involved molecular geneticists, Bayesian statisticians (e.g., Wilson, Weale, and Balding, 2003; Taroni et al., 2006], psychologists expert in witness credibility, and human rights lawyers. But who cares? Without question, had the vision-growing DNA profiling centered upon limiting the suspect pool, forensic DNA development would have been very different in three respects:

1. It would generate information about those whose criminal career has not yet led them into contact with criminal justice.
2. Current rules allowing the national DNA database (NDNADB) to retain information on those arrested but not brought to court and those acquitted at court cause understandable concern in human rights terms. Focusing on suspect pool reduction by phenotype information rather than the NDNADB for unique identification would reduce (but not eliminate) the danger of spurious arrests carried out by legitimate DNA sampling.
3. Suspect pool reduction could be achieved by diverse means, from DNA to witness statements. Bayesian approaches could be brought to bear across the range to minimize suspect pool size.

The attractiveness of the alternative approach outlined would involve contesting the naive notion that a day will dawn where all active offenders are to be found on NDNADB. The 2003 British Home Office claim that the DNA profiles of all active offenders would be on the national database by 2004 was nonsense. This is because of the high churn rate in active offending, with many offenders desisting, and many neophyte offenders commencing their offending careers. No more than two-thirds of active offenders will ever be found on the database, and no more than two-thirds of those on

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the database will be active offenders. Many of those new in criminality will not yet have been processed by criminal justice agencies (and hence no DNA sample would have been taken), and many of those on the database will have desisted from their adolescent-limited criminal careers [Leary and Pease, 2003; Moffitt 1993, 1997, 2003]. The use of diverse information sources is already routine (albeit not necessarily statistically refined) in the investigation of major crime. Some criminologists will be familiar with the Farrington and Lambert [2000] approach to offender profiling. Those authors identify personal characteristics of offenders about which witnesses are least often mistaken and show that small suspect pools result if the presenting combination of such attributes in witness statements is considered. This approach can be complemented by appropriately directed genetic assay. One can tell something about how someone looks from particular genetic markers. Among common characteristics, this can be done with accuracy for eye color and skin tone/ethnicity, with hair color also being the subject of research [McDonald and Foy, 2004]. Results could be put alongside work on pathologies, so that, for example, tooth anomalies [Tabata, 1998] or shortness of stature [Mullis et al., 1991] would be candidates for inclusion in the Bayesian process. The publications here noted come from disciplines from pediatrics through genetics to statistics.

A particularly exciting development that required the application of chemistry in a hitherto unconsidered context has been the analysis of the chemical makeup of sweat deposited in a fingerprint. This allows, for example, detection of the presence of drugs but has a much wider potential range of applications, with diverse antigens being detectable within fingerprint deposits. Antigens comprise anything that evokes antibodies, so apart from drink and drug use, the applications that the authors emphasize [see Leggett et al., 2007], occupation or locale-specific toxins or bacterial infections become knowable. The overlap between forensically and clinically relevant measures and the confidentiality considerations that flow from them will have to be addressed in this or other contexts. Why is this not simply chemistry? Its wider application (not obviously recognized in the text of Leggett et al.) could involve Bayesian statisticians (again), forensic geologists, pharmacologists, psychologists (to determine optimal use of a print in terms of forensic utility), and, without question, human rights lawyers.

Space precludes many further examples of integrative, "unframed" science, but the reader is referred to Itiel Dror's demonstration of the effects of pressure and expectation on the performance of fingerprint experts [Dror and Rosenthal, 2008], and Shane Johnson and Kate Bowers's work on tempospatial patterning of offending [see, e.g., Johnson, Bowers, and Pease, 2005], which draws from epidemiology, computer modeling, and geography.

One last example is irresistible, for three reasons. It is provocative, it has a genetic component that is the bête noir of traditional criminology,

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and finally because it addresses criminal development, which should not be excluded from the crime science vision. There exists a gene variant, MOAO, that lowers the activity of the enzyme monoamine oxidase A and that seems implicated in violence. This relationship is much stronger among maltreated children [see Caspi et al., 2002]. Thus there seems genetic sensitization to the effects of abuse. The finding appears strong [see Kim-Cohen et al., 2006]. Its implications could scarcely be more profound in identifying at least part of the mechanism of intergenerational transmission of the inclination to violence. Its implications for action may be wholly environmental, thus reflecting the proper interplay and understanding of nature-nurture relationships. Irrelevant to policy such work cannot be. That the last-cited paper was published in a newish hybrid discipline journal (*Molecular Psychiatry*) is telling.

1.7 Challenges and Opportunities

The author has been a member of the Green Party in the United Kingdom for many years and has fought many elections on their behalf. He was never so naive as to believe that there was a prospect of a Green government. However, the hope was that the major parties would steal the Greens' clothes, and that is coming to pass. In the same way, there are three visions for the future of crime science. They are listed in decreasing order of probability.

1. It exists institutionally only in the form of the Jill Dando Institute of Crime Science within University College London, where its ethos coincides with that of the college as a whole, concentrating on rising to meet global challenges by whatever combination of disciplines within the college is found to add value.
2. It stimulates much greater collaboration across science disciplines addressing crime, without ever constituting a generally recognized hybrid discipline.
3. It replaces criminology in the syllabuses of universities generally, leaving criminology as a vestigial discipline within sociology.

The writers fear the first option, hope for the second, and see the third as a remote aspiration.

The immediate problems for a crime science perspective are ones of image. These are of three kinds.

1. Because several of those individuals involved in establishing the Jill Dando Institute of Crime Science had previously worked on situational crime prevention and in environmental criminology, critics

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of the enterprise see it as synonymous with that tradition. Seen thus, crime science would be even more exclusive than mainstream criminology, whereas the intention is quite the opposite.

2. Recasting the study of crime and criminality as pan-disciplinary requires the involvement of experts in other disciplines. Yet mathematical modelers, for example, know as little of criminology as criminologists typically know about mathematical modeling. It is even more unfortunate if they do know something of the kind of criminology criticized earlier. In that event, they are more likely to be averse than indifferent to the prospect of collaboration.
3. The funding agencies and organizational structures consequent upon the traditional segmentation of knowledge remain in place, with their predeliction for certain kinds of research proper in the study of crime and criminality. Discipline loyalties, particularly within criminology, place some kinds of investigation beyond the pale through either perceived irrelevance or ideologically induced myopia [Pease, 2005]. The consequence of this will be success in funding applications inversely proportional to their coincidence with traditional views. It would be as well to admit that the writer's certainty that discipline boundaries do blinker the study of crime and criminality is fueled by personal frustration. Managing a small research group as he did until retirement, he found that continuity of funding was essential to retain more experienced colleagues. This was best achieved by writing banal and formulaic research proposals addressing the problems conventionally studied within criminology. In attracting funding for such proposals, the writer enjoyed tolerable success. On the occasions when an attempt was made to cross discipline boundaries in collaboration with scientists from traditions not generally contributing to crime work, there has been only failure. Of course, this pattern confounds the variables of personal competence and discipline defensiveness. The comments made by referees suggest the predominance of the latter (but I would say that, wouldn't I?).

So is striking out as a distinct discipline worth the effort? One sometimes feels like a spider seeking to scale the sides of a swiftly filling bathtub. This is certainly not the route to winning popularity contests. However, the effort is worthwhile. An eclectic approach seeking contributions across science disciplines, it is contended, would stimulate cross-discipline research, undermine the separation of natural and social sciences reflected in the structure of both the British Home Office and Research Councils and the content of university courses on crime, and remove obstacles to topic-led developments and the emergence of hybrid journals (which, as noted earlier, are characteristic of faster-advancing areas of scholarship). This chapter has provided examples

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of exciting actual and potential cross-discipline work and argued that the mushroom growth of criminology as a discipline in tertiary education is inimical to the reorientation advocated.

Let me end by paraphrasing Hayek, in arguing that a criminologist who is only a criminologist cannot be a good criminologist. The broader vision of a range of sciences is necessary to advance understanding optimally. Whether the Zeitgeist is right for the entry of crime science, only time will tell.

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Born for Evil? Biological Theories of Crime in Historical Perspective

2

NEIL DAVIE

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2.1 Introduction

The publication in Turin in 1876 of a slim volume bearing the simple but arresting title of *L'Uomo Delinquente*, or "Criminal Man," is the conventional starting point for discussions of biological theories of crime [Lombroso, 1876]. In a classic example of biological determinism, its author, Italian army doctor Cesare Lombroso (1835–1909), argued that up to 70 percent of lawbreakers were "born criminals," programmed from birth to commit crime. He considered such criminals to be walking museum pieces, carrying in their bodies the atavistic relics of humanity's more violent ancestral past. A battery of anthropometric tests, similar to those already commonplace in physical anthropology and paleontology, would make it possible to isolate the telltale signs or "stigmata" of atavism, a technique heralded as a major advance both for sifting evidence on potential suspects for a crime and for choosing the appropriate sentence once a criminal had been convicted. Nothing could be done, Lombroso argued, to prevent such individuals from fulfilling their

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sinister biological destiny; they were, in his words, "born for evil, against whom all social cures break as against a rock" [Lombroso, 1911:447].

Lombroso is often credited with having more or less singlehandedly invented a wholly new approach to the study of crime, known as *criminal anthropology*. Bringing as he did the techniques of Victorian natural science to the subject and by focusing not on a consistent, measured response to particular crimes but on the defects of *individual* criminals, he is seen as having demolished in one fell swoop the carefully constructed edifice of "classical" Enlightenment penology put in place during the previous century by theorists like Cesare Beccaria (1738–1794) and Jeremy Bentham (1748–1832). Even if Lombroso's own theories, that "incongruous amalgamate of hypotheses, comparisons, generalisations, and illogical conclusions," to quote one unforgiving modern assessment [Radzinowicz and Hood,1990:5], were discredited within a matter of decades, the Italian is seen as having provided a valuable service to future criminologists by establishing once and for all the validity of scientific approaches to the study of criminal causation. Beyond that, the criminological school founded by Lombroso is relegated to the status of the picturesque, its ideas deservedly gathering metaphorical dust in "a bewildering, fantastic antique shop" of little or no relevance to the subsequent history of the discipline [ibid.:5].

The picture now emerging of the early history of criminology has highlighted the inadequacy of the foregoing account on a number of levels. First, despite Lombroso's own claims for the novelty of his approach, his own version of events—complete with a eureka-like moment of revelation as he gazed at the skull of an Italian brigand[*]—is not quite what it seems. In reality, Lombroso was just one of many criminologists in these years drawing on a common pool of Darwinist ideas and degeneracy theory to view criminals as atavistic survivors or degenerate weaklings, condemned to a life of crime by defective biology. But even these were not the first attempts to explore the distinctive biological traits shared by criminals. As we shall see, phrenologists and physiognomists had been doing just that since the early part of the nineteenth century.

The second major problem with the conventional assessment of Lombroso's part in the history of criminology concerns his legacy. By the time of Lombroso's death in 1909, mainstream criminology had already begun to re-brand criminal anthropology as a quaint reminder of "prescientific" thinking on crime and the criminal, entirely divorced from its own practice, an assessment which has too frequently been accepted uncritically by historians and criminologists. Writing in 1918, British forensic psychiatrist Charles Mercier expressed what was already an entrenched view in the criminological fraternity when he asked how was it that "in an age in which

[*] See Horn [2003:30–31] for the problems with Lombroso's oft-repeated account.

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scientific methods were extending rapidly into ever new fields of research and endeavour, such stuff as this should ever have been accepted, and should have attained the extraordinary vogue that it did?" [Mercier, 1918:210]. Yet for all the rhetorical force of such statements, Edwardian criminologists like Mercier had not, in fact, consigned biological determinism à la Lombroso to a comforting sepia-hued past. On the contrary, the vast majority (including Mercier) remained convinced that certain offenders, at least, were propelled inexorably into a criminal career by inherited mental defects and, moreover, that the presence of particular anatomical and physiological traits provided cast-iron proof of the existence of such defects. A few criminologists went as far as to advocate eugenics-inspired solutions like sterilization or the death penalty for such incorrigible habitual criminals; but even among the majority of specialists who rejected these measures, the conviction remained that preventing or at least controlling reproduction—chiefly by long-term, possibly indefinite, incarceration—was the only means to effectively combat crime among such victims of uncontrollable biological impulses.

Although in general the psychological test and the psychiatric profile would come to be seen as more reliable indicators of criminal propensities than Lombrosian anatomical and physiological "stigmata," some criminologists continued to search for a link between physical traits and criminal behavior in the subsequent period. More important in the long term, however, was the new field of biosocial criminology or biocriminology, which would examine data on family trees, twins, and adopted children in an effort to unravel the effects of heredity on crime. Some specialists in this field have sought to pin down such hereditary influence to a particular gene, known popularly as the *crime gene*, whereas others aim to harness new technologies to study the neurological or biochemical specificity of the criminal population. In many respects, though the terminology and the technologies are very different, such researchers share with their nineteenth-century predecessors an underlying assumption that some or possibly many offenders are impelled to commit crimes by hereditary impulses beyond their control.

2.2 The Prehistory of Biological Criminology: Physiognomy and Phrenology

The first half of the nineteenth century saw the first attempts to apply the observational methods of inductive science to the study of crime. These included the first systematic collection of criminal statistics and the beginning of the debate—still raging today—about the link between arrest or conviction rates on the one hand and "real" levels of crime on the other. The conclusion generally reached by contemporaries was that if official crime rates were rising at an unprecedented rate, actual levels of

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lawbreaking were *even higher*; that there was, in fact, a subterranean world of endemic lawbreaking largely beyond the reach of respectable society but that continually threatened to contaminate it with its amoral subculture of idleness, irreligion, and violence [Bailey, 1993:221–57]. Although historians have found little evidence of such a crime wave, or indeed of the existence of such a "criminal and dangerous class" cut off from the rest of society [Emsley, 2005:21–55, 178], contemporaries were convinced of its existence and of the urgent need to find solutions. The development of professional police forces and the rationalization of the criminal law were typical responses; the construction of a new kind of prison, the significantly named *penitentiary*, was another. The latter was based on an unashamedly environmentalist theory of criminal causation, one in keeping with the intense evangelical faith that drove many reformers. Providing criminals were isolated both from their corrupting environment and from each other; were exposed to the morally invigorating rigors of hard physical labor, capable, it was believed, of "grinding rogues honest and idle men industrious," in Bentham's grimly memorable formulation [1981:342]; and were left for long periods in the sole company of their Maker to contemplate the enormity of their crimes, they could be successfully cleansed of their criminal propensities and would in time be ready to be reborn as useful members of the community.

This resolutely optimistic credo was dogged by skeptical criticism from the start, and by the 1860s, the tide of opinion had turned, ushering in a new era of punitive penal policy and limited hopes for the reformation of prisoners. It was this period (discussed in the next section) that would witness the kind of biological determinism and fatalism that would serve as the crucible both of Lombrosian criminal anthropology and, later, of eugenics. Paradoxically, though, the first systematic attempts to account for criminal behavior by studying the actual body of the criminal belong to an earlier period, precisely those years when considerable faith was still being placed in the ability of the particular environment created by the prisons to effect the permanent reformation of the criminal.

Both physiognomy and phrenology were at the peak of their influence in these years. The earlier of the two systems was formulated by Swiss theologian Johann Kaspar Lavater (1741–1801). In his *Essays on Physiognomy*, first published in 1775–1778, he had defined *physiognomy* as "the science of knowledge of the correspondence between the external and internal man, the visible superficies, and the invisible contents" [1789:19]. He divided the human face into three zones: the mouth and chin represented our "animal nature"; the nose and cheeks, our "moral nature"; and the forehead and eyebrows, our "intellectual nature." In practice, almost any physical deformity could serve as evidence of criminal propensities, but the one most frequently cited in the period was the

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presence of an unusually large lower face and jaw in comparison to the forehead and skull. Such a configuration was believed by physiognomists to indicate the dominance of the "sensual" (or instinctive) side of human nature over the "moral" and "intellectual." This was "the criminal type of head" described by British physiognomist W. Hatfield in his book *Face Reading* [1870]: low and broad, with wide lips, and a short and thick or "bullish" neck [in Cowling, 1989:291]. There was nothing new, of course, in associating physical—including facial—deformity or abnormality with innate wickedness: references to the idea go back at least to classical times. However, Lavater's treatise marked a new attempt to systematize such knowledge and to link it to new scientific standards of accurate observation and precise measurement [Hartley, 2001].

For all its claims to empirical rigor, physiognomy was given short shrift by the advocates of its near contemporary, phrenology. The German anatomist and pioneering phrenologist Franz Joseph Gall (1758–1828) castigated Lavater and his followers for their ignorance of anatomy and physiology, and in particular for the fact that they "know not the influence, which the brain exerts on the form of the head" [*On the Functions of the Brain*, quoted in Taylor and Shuttleworth, 1998:27]. The science of phrenology had been developed by Gall and his Austrian assistant, John Caspar Spurzheim (1776–1832), in a number of works, the first of which was published in 1809. Possibly because of the authors' impeccable credentials, its principles made some inroads into medical as well as popular opinion in the early nineteenth century.

The way Gall dismissed physiognomy hints at the assumptions underlying the phrenologist's creed, namely, that the action of particular faculties or "powers" of the mind correspond to specific regions or "seats" of the brain and that the pronounced development in an individual of a given faculty leads it to grow in size, thus pushing against the skull, creating a giveaway protuberance on the surface of the head. Like the physiognomists, phrenologists made a distinction between "intellectual" and "affective" powers, and they further divided the latter into "sentiments" and "propensities" (the equivalent, respectively, of the physiognomists' "moral" and "animal" zones). What Lavater had mapped onto the human face, Gall and Spurzheim were now ascribing to precise regions of the skull [Cooter, 1984].

Whether the subject was living or dead (and phrenologists examined both, some researchers amassing sizable collections of skulls or plaster casts), the external configuration of the head was thus seen as capable of generating unequivocal evidence concerning the innermost workings of the human brain, enabling the specialist to construct a detailed psychological profile of a subject within a matter of minutes. Leading British phrenologist George Combe (1788–1858), for example, concluded after examining an 18-year-old prisoner at Newcastle jail in 1835:

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> T. S., aged 18.... Destructiveness is very large; Combativeness, Secretiveness, and Acquisitiveness are large; intellectual organs fairly developed; Amativeness is large; Conscientiousness rather moderate; Benevolence is full, and Veneration rather large. This boy is considerably different from the last. He is more violent in his dispositions; he has probably been committed for assault connected with women. He has also large Secretiveness and Acquisitiveness, and may have stolen, although I think this less probable. He has fair intellectual talents, and is an improveable subject. [Combe, 1853: vol. 2, Appendix V, 54]

As Combe's diagnosis implies, phrenologists, like the physiognomists, considered humankind's instinctive, animal "propensities" to be the key to understanding criminal behavior. A highly developed seat of "combativeness" could thus explain violent tendencies, while an abnormal level of "acquisitiveness" could provide evidence that the subject was a thief. As for the organ of "destructiveness," situated above the left ear, it could, if unduly developed, lead to murder.

On the face of it, the theories of criminal causation advanced by the physiognomists and phrenologists appear to have little in common with the environmentalist assumptions underlying the policies advocated by their contemporaries in the penitentiary movement. However, at least as far as phrenology is concerned, the contrast is not as stark as it may appear. As George Combe's closing remarks about prisoner T. S. make clear, many phrenologists did not, in fact, regard the causal link between the overdevelopment of particular mental powers and deviant behavior to be an ineluctable one. In fact, as Nicole Rafter [2005] has shown, many phrenologists viewed character traits as heritable but not fixed, and as a result they were able to combine a deterministic conception of behavior with "an optimistic approach to crime and other social problems without a sense of contradiction."

The influence of physiognomy and phrenology had begun to wane by the 1840s, but the notion that there was a specific "criminal face" or "jail look" remained strong and would continue to constitute an important, if largely unacknowledged, assumption in popular and literary as well as purportedly scientific descriptions of the criminal for the rest of the century [Davie, 2005:35–36, 41–42]. At the more popular (lowbrow?) end, William Hepworth Dixon's midcentury survey of London prisons is typical:

> A man who has not seen masses of men in a great prison, cannot conceive how hideous the human countenance can become. Looking in the front of these benches, one sees only demons.... [T]he vast mass of heads and faces seem made and stamped by nature for criminal acts. Such low, misshapen brows; such animal and sensual mouths and jaws; such cunning, reckless, or stupid looks—hardly seem to belong to anything that can by courtesy be called human. [Dixon, 1850:244–45]

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2.3 Atavism, Degeneracy, and the Search for a "Criminal Type"

The decade before the publication of *Criminal Man* saw the emergence in Britain of an approach to the study of the criminal that prefigured in important ways that adopted by Cesare Lombroso. Its leading spokespersons were psychiatrist Henry Maudsley (1835–1918) and prison doctors James Bruce Thomson (1810–1873), David Nicolson (1844–1932), and George Wilson (?1811–1897). In a period of seven or eight years from the late 1860s to the mid-1870s, these men generated a coherent body of work that advanced the notion that some or perhaps most criminals suffered from what Maudsley famously termed "the tyranny of a bad organisation." Here were individuals who, as a result of "evil ancestral influences," had been "born with such a flaw or warp in their nature that all the care in the world would not prevent them from being vicious or criminal, or insane" [Maudsley, 1870:43, 75–76]. Just as Lombroso would later write of "a group of criminals born for evil, against whom all social cures break as against a rock," so Maudsley emphasized with equally vivid imagery the tyrannical grip in which biology holds the hapless criminal. "Punishment," he wrote, was "of no avail to produce permanent reformation. The dog returns to its vomit and the sow to its wallowing in the mire." "How," he asked, "can that which has been forming through generations be *re*-formed within the term of a single life? Can the Ethiopian change his skin or the leopard his spots?" [Maudsley, 1874:35].

Maudsley shared the view of such French Lamarckians as Dr. Bénédict-Augustin Morel (1809–1873) to the effect that the unhealthy environment of the burgeoning industrial towns, combined with such excesses as gluttony, alcohol abuse, or sexual profligacy, could take their toll on the body in the form of mental and physical defects that could then be passed on to the next generation. Morel's influential treatise of 1857 on the subject argued that with each successive generation, new defects were added to the old ones, beginning a downward spiral of "degeneration" [Morel, 1857]. Although this process was in theory reversible, Maudsley believed that the form taken by the new industrial society made it virtually inescapable. In this respect, he was doing no more than articulating in his own trenchant way a widely shared view in the broader scientific community of his time [Beggs, 1868:7–8].

Maudsley was also typical of an influential current of contemporary opinion in the way he combined such ideas with elements borrowed from Darwinian biology. A "recapitulation" or "retrogression" theory held that men and women, as they grow, pass through stages that correspond to the adult forms of their ancestors, human and nonhuman. In some people, it was argued, this development might be stopped, or "arrested," leaving them with a dangerous surfeit of physical and behavioral traits that were atavistic throwbacks to early human, or even prehuman, evolution. As Maudsley stated in

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his characteristically colored prose, there is "truly a brute brain within the man's; and when the latter stops short of its characteristic development as human—when it remains at or below the level of an orang's brain, it may be presumed that it will manifest its most primitive functions" [Maudsley, 1870:52–53]. Maudsley's views were frequently echoed in the pages of contemporary scientific journals. An 1873 article in *The Lancet*, for example, referred to the "imperfect cranial development, with its concomitant of feeble cerebration[,]" to be found in Britain's jails—a case, almost, of "retrogression in the direction of the brutes."

This rich brew of Lamarckian psychiatry and Darwinian biology received empirical corroboration from the observations of Thomson, Nicolson, and Wilson, all employed in Britain's convict medical service. "There is a criminal class distinct from other civilized and criminal men," wrote the Scottish prison surgeon Dr. James Bruce Thomson in an 1869 article in the *Journal of Mental Science*, "marked by peculiar physical and mental characteristics." These characteristics made the thief "as completely marked off from honest working people as black-faced sheep are from other breeds" and included a "coarse and repulsive physique"; a "dingy, almost atrabilious" complexion; and a "disagreeable" mien. Thomson emphasized that these traits were the sure sign of a criminality that was both inherited and incurable [Thomson, 1866:340–48; 1869:479–98]. His observations seemed to be confirmed by the evidence of the surgeon's scalpel. Postmortem examinations carried out by him on prisoners at Perth convict prison in Scotland revealed that "scarcely one of them can be said to die of one disease, for almost every organ of the body is more or less diseased; and the wonder to me is that life could have been supported in such a diseased frame" [Thomson, 1869:492]. Fellow Scot Dr. David Nicolson and English prison doctor George Wilson used similar language in articles and lectures in the same period, concluding, as the former put it, that criminals "carry their defects with them; their face; their gait and their expression at once tell those who come into contact with them what they are or are not to expect from them" [Nicolson, 1873–75; Wilson, quoted in Ellis, 1890b].

Sir Edmund Du Cane, appointed head of Britain's newly nationalized prison service in 1877, seems to have been so convinced that prisoners did indeed "carry their defects with them in their faces" that he commissioned the amateur anthropologist, statistician, and future father of eugenics Francis Galton (1822–1911) to investigate the possibility that the new technology of photography could reveal the existence of a visual "criminal type," possibly with different subtypes for robbers, arsonists, and rapists [Davie, 2003:191–220]. Having ruled out simply choosing a supposedly typical photographic "type" from among a collection of convict mug shots, and also rejecting the use of body measurement as a basis for selection, Galton hit upon the idea of superimposing several convict portraits to produce one "composite" image

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[Galton, 1883:4]. He hoped that those facial characteristics shared by a large number of criminals would appear clearly on the multiple images, while the idiosyncrasies of each would be reduced to a blur [Galton, 1879a:134], an assumption that explains his description of the composites as "pictorial statistics" [Galton, 1879b:162].

As for Du Cane's hopes for the project, all we have is a cryptic remark made at the end of one of Galton's talks on composite photography to the effect that the aim of the project had been to "try and track it [crime] out to its source and see if we cannot check it there instead of waiting till it has developed and then striking at it." Galton's experiments, he added, "would help to establish this point" [Galton, 1879a:142–43]. Could Du Cane have hoped that Galton's results would enable the police to be provided with a kind of generic mug shot capable of distinguishing the innocent and the guilty or perhaps giving clues as to future or potential criminals? Was it that Du Cane was, in fact, mooting a Victorian department of "precrime" similar to what science-fiction writer Philip K. Dick would imagine in his 1950s short story *Minority Report* [Davie, 2002:31]? It is certainly an intriguing possibility. Whatever the hopes for the project, by 1878 Galton had been forced to concede that the experiments had been a failure. The "special villainous irregularities" that had so struck him in the individual portraits seemed to mysteriously vanish when combined with each other [Galton, 1879b:161–62].

2.4 "Criminal Types" and Identification Technologies

Galton would return to the composite portrait on a number of subsequent occasions, notably in an ominously portentous article of April 1885 on the "Jewish type" [885:234–45], but he would never again seek to apply it to the search for the criminal type. Composite portraiture was not, however, the only example of new technology being harnessed by research seeking to establish the existence of homogenous social or racial "types." Indeed, as historian Simon A. Cole has shown, throughout the last quarter of the nineteenth century, interest in applying new technologies like photography and fingerprinting in the criminal justice field was inextricably enmeshed in broader epistemological suppositions concerning the supposed physical homogeneity of particular racial or social groups [Cole, 2001]. Portrait photography is a case in point. Although the collection of photographic portraits of criminals by the police and prison authorities had been underway since the early 1850s [Hamilton and Hargreaves, 2001], some had continued to express skepticism as to the value of the exercise, assuming that one criminal looked much like another. Similar assumptions among U.S. immigration officials and British colonial administrators in the 1870s and 1880s led both to rule out photography for identification purposes; after all, the Chinese

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immigrants and colonial Indians looked too alike to be distinguished by the camera lens. Both turned to the then little known technique of fingerprinting as an alternative. Only later would the criminal justice applications of studying arches, loops, and whorls become apparent [Davie, 2006].

Some scholars have seen in the development of fingerprinting, and in the contemporaneous system of anthropometric identification invented by Paris police official Alphonse Bertillon (1853–1914), evidence of a shifting conception of the criminal in the late nineteenth century. According to this view, criminals were no longer considered representatives of a generic criminal "type" (as Maudsley, Thomson, and Galton had assumed in the 1860s and 1870s), but were seen instead as unique individuals who could, with the right technology, be distinguished from any of the other 1.5 billion humans on the planet [Sekula, 1986:19]. Yet, as our observations about the early history of fingerprinting suggest, it may be misleading to link technological developments too closely to a changing paradigm of the criminal. Indeed, a close study of the position of Galton provides clear evidence that something more complex was afoot, for after abandoning composite photography, he turned his attention at the end of the following decade to fingerprinting, working closely with a number of pioneers in the technique from the Indian civil service [Sengoopta, 2003]. Significantly, Galton's interest in the subject, at least initially, derived not from a wish to find a better way of identifying individual criminals but from his hope that fingerprints might constitute a reliable marker for the hereditary physical and mental differences he believed to characterize humankind.

This was no mere intellectual puzzle as far as Galton was concerned. Convinced that the country's racial stock was being sapped by a downward spiral of Morelian degeneration, he had been urging since the 1860s the importance of encouraging procreation among those in possession of the country's superior bodies and minds, while at the same time discouraging (possibly by force) the proliferation of the cerebrally and physically challenged. Although the movement designed to actively campaign for policies along these lines lay in the future (see Part 6 in this chapter), Galton had already coined a neologism, "eugenics," to describe the science of improving racial stock [1883:17]. He had also been devoting considerable time and energy to the search for markers enabling the "fit" to be reliably sorted from the "unfit." Could fingerprints provide him with the simple and unequivocal test of eugenic fitness he was looking for? In 1892 he was forced, once again, to admit failure; neither ethnicity nor personality traits had proved to be linked to fingerprint types. He did express the hope, however, that such a link would reveal itself in due course [1892a:26, 195–97]; as late as 1930, Pearson was still holding out hope for progress in this area [Pearson, 1930: vol. 3b, 139–40].

Alphonse Bertillon's anthropometrical technique, dubbed *Bertillonage*, appeared at about the same time as fingerprinting, making its debut in the

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Paris *Préfecture de Police* in 1882. A development of preexisting anthropological practice, Bertillonage was based on the collection of standardized anthropometric data among criminal suspects (the use of trained personnel and specially designed instruments was emphasized), which would then be entered on a "signaletic" card, invented for the purpose. Bertillon boasted that with the database composed of thousands of such cards organized into a number of groups and subgroups on the basis of particular measurements (height, head length, arm span, right ear length, etc.), it was possible to verify in a matter of minutes if a suspect's profile matched an individual already on file [on Bertillon and his system, see Cole, 2001; Sekula, 1986; Phéline, 1985]. In a context of rising international concern about the difficulty of accurately identifying habitual criminals, the appeal of a system that "created a definition of the individual that the body could not escape," as Cole puts it, was clear [2001:53].

We saw in Galton's case that it was possible to argue that every individual had a unique combination of finger ridges and furrows, while at the same time persist in the belief (despite lack of palpable evidence) that there were certain recurring patterns among particular racial or social groups. Alphonse Bertillon's position is more difficult to establish with precision, but it appears that, like Galton, he had not, in fact, ruled out-of-hand the existence of generic criminal types. In a paper given to the 1896 Congress on Criminal Anthropology in Geneva, he suggested that when a sufficient number of cases had been studied according to his anthropometric method, it would be possible to "establish the frequency of malformations and facial anomalies among the various individuals, as well as the correlation between these anomalies and their individual criminal tendencies" [Bertillon, 1897:65–66 (author's translation)]. As we shall see, there was, in fact, something approaching a consensus among Bertillon's contemporaries in the criminological fraternity that criminals possessed such "malformations" and "anomalies" in greater numbers than the rest of the population. The question that remained unanswered was what exactly their study could reveal about the relationship between heredity and crime.

2.5 Lombroso's *Criminal Man* and Its Critics

Between 1876 and 1897, *Criminal Man* went through five editions and was translated into French and German,* and for some 25 years its author, Cesare Lombroso, was either eulogized or vilified in legal and penal circles, but rarely ignored. The series of peripatetic international congresses on criminal anthropology held in the 1880s and 1890s were a particularly important

* For a recent scholarly English translation, see Rafter and Gibson [2006].

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forum for debate, witnessing a number of impassioned and sometimes heated exchanges, particularly when Lombroso and his colleagues of the *Scuola Positiva* crossed swords with representatives of the French *Milieu Social* School, considered to favor a sociological approach to the study of crime [Kaluszynski in Becker and Wetzell 2006: ch. 13]. However, despite appearances, recent research on both Lombrosian criminal anthropologists and early French criminology has revealed that these exchanges should not be seen as a clear-cut confrontation between national "schools," each seeking to proffer mutually exclusive "biological" or "sociological" explanations of crime [Horn, 2003; Renneville, 1994, 2005; Mucchielli, 2006].

In later editions of *Criminal Man*, Lombroso made some attempt to integrate social factors into his explanation of crime and repeatedly corrected downward the proportion of lawbreakers falling into the "born criminal" category.* As David G. Horn has shown, however, the modifications made to *Criminal Man* by its author over the years were not so much changes in reality, as "accretions," with new data amassed and new explanatory factors bolted on in the form of exogenous social causes and various congenital conditions (degeneration, moral insanity, epilepsy, etc.). In neither case was any attempt made to integrate the additions into the whole [ibid.:4–5]. Rafter and Gibson have detected a similar process at work in Lombroso's *Criminal Woman*: *The Prostitute and the Normal Woman*, written with his son-in-law Guglielmo Ferrero and first published in Italian in 1893 [Lombroso and Ferrero, 1893 (2004 English transl.)].

Just as Lombroso's approach was not one of "pure" biological determinism—at least from the date of the second edition of *Criminal Man* in 1878—so the French *Milieu Social* School did not in practice bring an unalloyed sociological perspective to the study of crime and the criminal. The School's leading representative was Lyons-based forensic scientist Alexandre Lacassagne (1843–1924), who consistently emphasized that "social factors" were the key to understanding crime. Once again, things are not quite what they seem. As French criminologists Renneville and Mucchielli have pointed out [Renneville, 1994:107–35; Mucchielli, in Becker and Wetzell, 2006: ch. 9; Renneville, 2005], Lacassagne and his colleagues did not, in fact, argue that biology was irrelevant in the etiology of crime; rather, they claimed that the social environment acted as a *trigger*, activating a dormant "criminal nature" entirely predetermined by heredity. All that was needed was the right combination of conditions to spark off criminal behavior. Those considered most vulnerable to the nefarious effects of the social milieu were a group Lacassagne referred to as "occipitals." This idea derived from an anthropological theory, popularized by anthropologist Paul Broca, which

* By the fifth edition of *Criminal Man,* he was suggesting that only about a third of offenders could be considered "born criminals" [Horn, 2003:16].

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sought to classify humans into categories according to their skull shape. This tripartite classification into "frontal" (brains highly developed in frontal or anterior lobes), "parietal" (most highly developed in parietal or middle lobes), and "occipital" (most highly developed in rear, or occipetal, lobes) races owed much, in turn, to the continuing influence of phrenology in French scientific circles [Gould, 1997:129].

What we have here is something clearly very different from modern sociological explanations of criminal behavior. In fact, members of the French School shared with Lombroso the belief that there was a concentration of anatomical and physiological defects among the criminal population and, indeed, that they could be detected in much the way the Italian had suggested. Where they differed from the Italian criminal anthropologists was in their insistence that the explanation for the association of such bodily defects with the criminal population was to be sought not in in the theory of atavism but in the process of Morelian degeneration, caused by what Lacassagne referred to as "a corrupting social milieu: bad eating habits and drink which harm the functions of the nervous system, together with diseases like tuberculosis, syphilis, etc., the microbes of which teem like lice in the houses of the Poor" [Lacassagne, 1908:xi (author's translation)].

Whether the explanation for such defects was to be found in degeneration theory, as Lacassagne believed, or involved atavism and retrogression (or a combination of the two), most criminologists of the period assumed that there were recurring telltale physical markers of deviant impulses on the criminal body and that such traits could be measured with accuracy. The methods adopted by late-Victorian criminologists were already familiar to their colleagues in the neighboring discipline of anthropology: the precise measurement of the body, and particularly of the head, with a view to classifying individuals into more or less homogeneous groups or, as anthropologists preferred to call them, "races" [Stepan, 1982; Stocking, 1987]. A vast array of intricate and ingenious devices had been developed for the purpose; "craniometry" in particular was a thriving subspeciality, with its own battery of tests, pride of place being given to the measurement of cranial capacity, often assumed to indicate with precision the ranking of an individual or group in the evolutionary hierarchy [Gould, 1997:114–28]. Other common anthropological benchmarks, taken up by Lombroso, were the relative size of the frontal and occipital regions of the brain, the facial angle (the extent to which the face and jaws jut forward), the size of the lower jaw, and the cranial index. Although he had some difficulty explaining away the large cranial capacity of some criminals, his measurements left him in no doubt that "many of the characteristics of primitive man are also commonly found in the born criminal." Among the anatomical traits considered to provide proof of such atavism were a retreating forehead, prognathism, and large eye sockets [Lombroso, 1876 (2006 English transl.):222].

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As far as female offenders were concerned, Lombroso's modern editors point out that the Italian tied himself in rhetorical knots trying to reconcile the results of his measurements with his assumption that being on a lower rung of the evolutionary ladder than men, women—and thus women criminals—were likely to exhibit a greater frequency of atavistic anatomical and physiological stigmata [1893 (introduction to 2004 English transl.):7–11]. His solution to this conundrum—in accordance with a widely held view of the period [Zedner, 1991]—was to argue that while women were generally more law-abiding than men, those who did cast aside the conventional restraints of "maternity, piety and weakness" were endowed with an "immense" power for evil. "The female born criminal," Lombroso concludes, "is, so to speak, doubly exceptional, first as a woman, then as a criminal.... As a double exception, then, the criminal woman is a true monster" [Lombroso and Ferrero, 1893 (2004 English transl.):183–84].

Lombrosian criminologists supplemented their anatomical observations with a range of physiognomical and behavioral observations. Indeed, it was the Italian's ability to synthesize this vast amount of heterogeneous data and provide his readers with apparently scientifically generated thumbnail sketches of "typical" criminals that captured the imagination of specialists and public alike. His portraits have all the striking visual clarity of a photographic plate. Here, for example, is the "habitual murderer":

> Habitual murderers have a cold, glassy stare and eyes that are sometimes bloodshot and filmy; the nose is often hawklike and always large; the jaw is strong, the cheekbones broad, and their hair is dark, abundant and crisply textured. Their beards are scanty, their canine teeth very developed, and their lips thin. [Lombroso, 1876 (2006 English transl.):51]

Forgers and swindlers are also singled out for the Lombroso treatment:

> A great many forgers and swindlers that I have studied have a distinctive physiognomy and display a certain bonhomie, something almost clerical which in their pitiful criminal careers tends to inspire trust. I have seen individuals of this type with a pale face, haggard or very small eyes, a twisted nose, and in some cases early hair loss and a face resembling that of an old woman. Indeed, often the parents of such subjects are old. [Lombroso, 1887:226 (author's transl.)]

As we saw in the French case, it is only in the last 10 or 15 years that historians and criminologists have begun to acknowledge the complexities of debates on the etiology of crime in this period, to penetrate the often misleading rhetoric—embroiled in personal, national, and professional

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rivalries—and explore what really separated the various "schools" of criminology. The British position, apparently characterized by pervasive and, indeed, often vituperative anti-Lombrosianism, is a case in point. What was seen as the pretentious theorizing and slapdash methodology of criminal anthropologists came in for consistent and often mocking criticism from the 1890s. In particular, Lombroso and his adepts were charged with deducing a whole range of behavioral anomalies on the sole basis of the extent to which a particular criminal conformed to an unchanging checklist of anatomical and physiognomic "stigmata." The problem with this technique, the British never tired of pointing out, was that a man "may have a twisted eye, a short leg, and a humped back, and yet be an honest, peaceable citizen" [Adam, 1911: vol. 5, 5]. As prisons inspector Arthur Griffiths quipped, "A man is surely only accountable for his acts, not for his looks" [Griffiths, 1894: vol. 1, 19].

British criminologists distanced themselves from what they regarded as unscientific nonsense of this kind, priding themselves on their "hands-on" expertise, born of long years of clinical and administrative experience. For all its seductive reasonableness, the British insistence on white-coated pragmatism as opposed to lofty Continental theorizing is not quite what it seems. First of all, support for Lombroso's born-criminal theory was not limited, as is often suggested, to a handful of amateur "eccentrics" like Galton or Havelock Ellis (1859–1939), the latter the author of a generally favorable survey of criminal anthropology, published in 1890 [Ellis, 1890b]. Recent research has revealed the existence of more widespread support for the Italian's theories, particularly among the country's asylum-based psychiatrists [Davie, 2005: chs. 3, 4]. Even among the prison doctors, forensic psychiatrists, and Home Office officials who constituted the country's self-appointed criminological establishment, there was an acknowledgment that certain criminals were propelled inexorably into criminal behavior by the force of inherited mental impulses. They eschewed Lombrosian terminology in calling this group "moral imbeciles" and "essential" or "weak-minded" offenders, but they were just as pessimistic about the hopes for reform in such cases as the Italian professor himself. They even used much the same vocabulary—a mixture of medicoanthropometric terms, physiognomy, and phrenology—as their French and Italian colleagues.

Where mainstream British criminology did differ from Lombroso was in its estimation of the size of this group of biological misfits. This was no mere squabble over numbers. If it could be shown that a large, and possibly growing, proportion of the criminal proportion were indeed the helpless victims of defective biology (and it was, of course, a big "if"), then there were potentially far-reaching consequences for both the criminological profession and the broader criminal justice system.

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2.6 Biology, Crime, and the Call of Eugenics

Those who took an active part in the eugenics movement, launched in England by an aging Galton in 1901 and taken up elsewhere with varying degrees of enthusiasm in the next few years, were indeed convinced that a large and growing proportion of the criminal population were the helpless victims of defective biology. Eugenicists considered crime as but one manifestation of a more general problem, the decline of racial vigor, which they often linked to the process of degeneration we discussed earlier, itself seen as the inevitable consequence of the inimical conditions of the modern industrial town. Galton saw about him striking evidence for his fears in "the draggled, drudged, mean look of the mass of individuals, especially of women, that one meets in the streets of London and other purely English towns," those "men and women with narrow chests and weak chins, scrofulous, and otherwise gravely affected" [Galton, 1883:16; 1892b:340]. Elsewhere, this discourse might be combined with nativist fears about the consequences of large-scale immigration. In the 1890s, for example, U.S. criminologist and eugenicist Henry M. Boies warned of the impact on his country of the arrival of "effete races" from Southern Europe. Unless the flow of immigrants was severely curtailed, he argued, the purity of the Anglo-Saxon stock would be undermined and "national lethargy" and "fatty degeneration" would inevitably ensue [Boies, 1893:49, 51].

Matters were made worse by the fact that the birthrate among such unfortunates was believed to be higher than among their more cerebrally and physically gifted brethren. This created an ominous fertility gap between what one British eugenicist described as "the steady, persevering, industrious, progressive, and capable members" of society, on the one hand, and "the insane, the feeble-minded, the paupers, the criminals, and the whole parasitic class of the country," on the other [Tredgold, 1911:18–19]. According to one widely quoted estimate, 25 percent of parents drawn from the "unfit" category were producing as much as 50 percent of the next generation, and if anything, the gap was widening [Soloway, 1995:11–13].

So what could be done? Galton himself placed greater emphasis on the need to exhort greater procreative efforts on the part of the racial elite. However, such "positive eugenics," as it was known, was only half the equation. What to do about those whose reproductive ability was rather less welcome? Since it was from the latter category that criminals were assumed to be principally drawn, the issue of "negative eugenics" was closely linked to more general debates about crime. Eugenicists often assumed that most members of the "parasitic class" were criminals and, equally, that many, possibly most, criminals were led inexorably into lawbreaking by their defective biological inheritance. Unsurprisingly in these circumstances, little faith was placed in traditional penal remedies, for as convinced eugenicist

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Karl Pearson (1857–1936) put it starkly in a lecture of 1900 (in language strongly reminiscent of both Maudsley and Lombroso), "You cannot change the leopard's spots, and you cannot change bad stock into good" [Pearson, 1905:19].

Such reasoning explains why eugenicists gave such a warm welcome to an exhaustive statistical study of the criminal diathesis, published in 1913, the results of which appeared to bring copper-bottomed statistical support to their claims [Goring, 1913]. This was an unexpected outcome for a study commissioned by the British Home Office in 1901 in order, as one of its sponsors put it, to "fire the last shot" at the "deserted ship" of Lombrosian criminology. The Home Office was convinced that the team put in place to carry out the study, led by prison doctor Charles Goring (1870–1919), would show up Lombroso for the charlatan that he was. This would, in turn, help wean the public off what was seen as an unhealthy obsession with a vision of the criminal as a brutish "child of darkness, without pity and without shame, and with the predatory instincts of a wild beast," as one official put it [Ruggles-Brise, 1921:199–200]. Only when this paper tiger had been torn to shreds, it was felt, would it possible to develop a rigorous and "scientific" approach to the study of the criminal.

Goring's study submitted some 4,000 convicts to a battery of anthropometric and psychological tests—96 variables in all—in an effort to establish the extent to which the criminal diathesis was "associated with environment, training, stock, and the physical attributes of the criminal" [Goring, 1913:26–27]. As expected by its sponsors, *The English Convict* found no statistical correlation between Lombroso's anatomical and physiological stigmata and particular types of crime or saw any significant difference in this regard between prisoners and the rest of the population [ibid.:173, 370]. However, Goring did not leave things there. Although his analysis had yielded no correlation between Lombroso's stigmata and criminal propensities, this did not mean that criminals were physically and mentally identical to the rest of the population. Controlling for age, social class, and the effects of imprisonment, he compared height, weight, arm span, general health, physical constitution, muscularity, and obesity in the two target populations; his results indicated that there was, in fact, "a physical, mental, and moral type of normal person who tends to be convicted of crime." This type was differentiated from the rest of the population by both "defective physique" and "defective mental capacity" [ibid.:370]. Finding that the social environment appeared to play only a "trifling" role in the creation of these physical and mental inequalities, Goring concluded, as had the eugenicists, that hereditary factors were the principal cause of crime [ibid.:288]. His solutions were also those of the eugenics movement: either permanent segregation and supervision or, more radically, "to regulate the reproduction of those degrees of constitutional qualities—feeble-mindedness, inebriety,

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epilepsy, deficient social instinct, etc.—which conduces to the committing of crime" [ibid.:373].

This was all grist for the eugenicist mill, of course, a fact suggested by the enthusiastic welcome given to Goring's findings by Galton's former associate, Pearson [introduction to abridged edition of Goring, 1919]. Home Office officials, on the other hand, were far from happy that one criminal "bogeyman" seemed to have been replaced by another. Indeed, a number of leading British criminologists publicly disassociated themselves from the book's conclusions. Elsewhere, it was Goring's combat with Lombroso's "anthropological monster" that attracted the most attention, and as such the book was welcomed by those in Germany, France, Italy, and the United States who had opposed Lombroso's born-criminal type from the outset. As for the guardians of the Italian's legacy, they were cheered by what they considered Goring's partial vindication of the theories of criminal anthropology. In fact, some diehard supporters of Lombroso went as far as to openly embrace the book's conclusions. In an oft-quoted remark, his daughter Gina, who had recently written a summary in English of her father's theories, described *The English Convict* as "more Lombrosian than Lombroso" [Lombroso-Ferrero, 1914].

We saw earlier that in practice many of Lombroso's most virulent opponents shared his view that certain criminals were condemned to lawbreaking by the force of inherited mental defects and, moreover, that in such cases the only course was prolonged, possibly indefinite incarceration. They even accepted the eugenicists' argument that such segregation would serve the double purpose of protecting the public from the depredations of the congenitally criminal and preventing the latter from reproducing their kind. However, it was only those who shared Galton's alarmist vision of a racial stock being gradually but inexorably choked by what one observer [Griffith, 1903:239, 241], called the "noxious weed" of habitual crime, who saw the need for any large-scale program of segregation. Some, like Goring, were prepared to go further than this and advocate the systematic *sterilization* of habitual criminals, seen as a quick, easy (and relatively cheap) alternative to long-term incarceration. Between 1907 and 1917, a number of U.S. state legislatures passed laws allowing prison doctors to perform the operation. One 1926 estimate put at 3,000 the number of habitual criminals sterilized in the United States by that date [Rafter, 1997: chs. 7, 8]. Although there was isolated support for the sterilization of criminals from medical practitioners elsewhere, many doctors and psychiatrists had serious reservations about the ethical and legal probity of the procedure; they were, in any case, unconvinced by the scientific argument seeking to tie criminal behavior to defective biology in any systematic fashion [Becker and Wetzell, 2006:223–26, 240, 295–97; Davie, 2005:253–55]. Finally, there was the practical concern (shared by many eugenicists) that sterilizing offenders would function to create a class of criminal "outcasts," at the same time exacerbating sexual immorality,

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particularly among women. In fact, only in the extreme conditions of Nazi Germany would any systematic program of criminal sterilization be attempted [Wetzell, 2000: ch. 7], though for the rest of the century thousands would continue to be caught up in eugenics-inspired programs in the United States, Canada, Japan, and Sweden, targeting the "feebleminded," "mentally deficient," or "defective" [Kelves, 1995].

2.7 Lombroso Revisited? The Work of Hooton and Sheldon

In the 1930s and 1940s, American researchers Ernest A. Hooton and William Sheldon continued to base their theories of criminal behavior on essentially Lombrosian assumptions [Hooten, 1939a, b]. They were part of that U.S. tradition of what Nicole Rafter terms *eugenic criminology*, based on "the notion that criminality is caused by an inherited biological defect, and can be curbed by reproductive controls" [Rafter, 1997:35]. She situates this intellectual tradition essentially in the period 1875–1915, its beginnings rooted in Morelian degeneration theory and popularized by Richard Dugdale's case study of the Jukes family, a 1,000-strong clan of apparently congenital bastards, beggars, murderers, prostitutes, thieves, and syphilitics [Dugdale, 1877]. Over this 40-year period, the institutional context and the terminology varied—from "moral imbecile," through Lombrosian "born criminal" to "defective delinquent"—but the commitments both to the primacy of inherited criminal tendencies and to the need to strictly control reproduction among the target group were constants. After World War I, Rafter argues, eugenic criminology in the United States lost momentum. This was partly as a result of intellectual developments. The growing ascendency of psychiatry and in particular its new theory of psychopathy, together with a more sophisticated understanding of the mechanism of heredity, made the old labels look like blunt instruments indeed. The social and political climate was also changing. With fears about national decline and degeneration losing their potency in middle-class circles, the alarmist predictions of the eugenicists began to look increasingly overblown [Rafter, 1997].

For all these changes, intellectual, social, and political, some U.S. criminologists remained faithful to the old order. One of them was Ernest A. Hooton (1887–1954), a Harvard-based physical anthropologist, who published a number of anthropometric studies of the criminal in the late 1930s. Castigating his colleagues in the criminological profession for having precipitously abandoned the study of the physical hereditary characteristics of criminals, he claimed his own study of some 10,000 offenders had revealed that a Lombroso-style criminal type did exist after all. Among the recurring physical traits he found in his sample of criminals were sloping foreheads, pointed chins, long necks, and round shoulders, all indicative in his view

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that "the biologically inferior, the organically inadaptable, the mentally and physically stunted and warped" were responsible for the majority of crimes [Hooten, 1939b:33]. Hooton held out little hope for such "low-grade human organisms"; his only solutions were the familiar ones of the eugenics movement: "extirpation" or "complete segregation in a socially asceptic environment" [ibid.:309].

Although mainstream social scientists and criminologists quickly condemned Hooton's research for its shoddy methodology, circular arguments, and value judgments [Rafter, 2004; Merton and Montagu, 1940], one element of his theory, at least, lived to fight another day. In *The American Criminal* [1939a], in addition to establishing a general Lombrosian criminal type, Hooton had postulated a series of physical subtypes linked to particular offenses. Thus, murderers and robbers tended to be tall and thin, whereas assault, rape, and other sex crimes were typically committed by undersized men. Psychologist William H. Sheldon (1898–1977), brought to Harvard by Hooton in the late 1930s, produced a more sophisticated version of his mentor's criminal subtypes; Hooton based his types on the division of the human body into three basic shapes or "somatypes": endomorphic (soft and round), mesomorphic (muscular and stocky), and ectomorphic (thin and fragile).

Although no individual was a "pure" example of one of the three types, Sheldon's "somatotyping" of 200 young offenders from Boston claimed to have revealed an overrepresentation of mesomorphic features among his subjects when compared to a control group of college students. Sheldon then made what one modern study has termed "the quantum leap" [Curran and Renzetti, 2001:36] to suggest that particular body types were necessarily associated with particular behavioral traits, an approach he termed "constitutional psychology" [Sheldon, 1949:4]. In Sheldon's view, mesomorphs tend to be characterized by aggression, risk taking, competitiveness, and assertiveness, traits likely to lead to bullying and petty crime. A comparison of the "delinquency scores" of the Boston sample with those of their parents convinced Sheldon, moreover, that delinquency was an inherited trait, and like Hooton's, his solutions were those of the eugenics movement. Drawing on the argument familiar from the works of Galton and Pearson, he argued that unless the state intervened to control what he called the "spawning" of the "weakest and least gifted of the species," the nation's "best stock" would be "out-bred by stock that is inferior to it in every respect." Social chaos, a crime wave, and even war would then be likely to ensue [ibid.:836–38].

Sheldon's somatotyping technique no more succeeded in convincing mainstream criminological opinion than had Hooton's work 10 years previously, with similar concerns raised about sampling and circular reasoning [Curran and Renzetti, 2001:38; Sutherland, 1951].* However, the

* Sutherland's review of Sheldon's methodology was particularly damning.

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husband-and-wife team of Sheldon and Eleanor Glueck, also part of Hooton's circle at Harvard, continued to use the tripartite division of body type in their own studies of delinquent youth in the 1950s. Working with physical anthropologist Carl C. Seltzer (another Hooton protégé), they had results similar to Sheldon's, their sample of 500 containing a preponderance of mesomorphs. They did concede, however, that body type was not sufficient on its own to explain why certain boys became delinquent [Glueck and Glueck, 1950, 1956]. Although research by psychologists on youth offenders in subsequent decades seemed to confirm the mesomorphy-delinquency connection [Putwain and Sammons, 2002:31–32], sociologists and criminologists have tended to remain skeptical about any causal role for biology in such cases. That being said, they do not rule out the possibility that a physically intimidating "mesomorphic" appearance may both be an asset for certain kinds of delinquent activity and serve to "select," as it were, such individuals for increased attention from the police and from sentencing authorities [Curran and Renzetti, 2001:39–40].

2.8 The New Phrenology? Biology, Genetics, and Crime in the Era of DNA

Just like Bertillonage and fingerprinting in their time, DNA profiling is now offered as "the ultimate identifier," "the new gold standard in forensic science"; while databases of DNA records have been termed "the most powerful collection of personal data ever held," possessing "a speed, efficiency, automation and accuracy … unmatched in the history of policing" [Lander, 1992:192; Wall, 2002:98]. Although the form in which DNA profiles are usually stored on databases by law enforcement agencies does not easily lend itself to research on the link between genetics and crime, it is worth remembering, as Simon Cole notes, that in the past, the development of criminal identification techniques has, on each occasion, led some researchers to move beyond questions of individual identity in the hope of discovering generic biological indicators or markers of potential or future deviance [Cole, 2001:305]. It may be no coincidence, therefore, that the development of forensic uses for DNA since the 1980s has been accompanied by renewed popular, scientific, and political interest in biological explanations of crime in general, and in genetic ones in particular [ibid.; for a survey of the field, see Walsh and Beaver, 2008].

As far as the role of general biological factors is concerned, researchers continue to try to unravel the inherited component of criminal behavior by studying family trees, twins, and, most recently, adopted children. There has also been interest in the role of physical injury or exposure to toxic substances before birth, in hormone imbalance, and even in how dietary deficiency may

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lead individuals to commit crime. Another flourishing topic of research in this field of "biosocial criminology" or "biocriminology" is the study of the criminal brain. Researchers use sophisticated brain-imaging technology to look for links between deviant behavior and the presence of cerebral anomalies or abnormal electrical activity in particular regions of the brain. The hope is, presumably, that something amounting to a neurological criminal type can be identified [Curran and Renzetti, 2001:40–56; see also Rafter, 2001].

Even the most ardent supporters of such techniques concede that such factors as hormone deficiency, exposure to lead poisoning, or a damaged frontal lobe are not in themselves sufficient to generate criminal behavior, and they tend to talk in terms of a "dialogue," "reciprocal influence," and "feedback loop" between biology and environment. That being said, some biocriminologists clearly consider, as one leading exponent has put it, that "genetic and biological factors play an equal, if not greater, role than social factors in crime causation"—in short, that "bad brains lead to bad behaviour" [Raine, 2004]. Critics, for their part, point to the fact (as did opponents of Lombrosian criminal anthropology in the 1890s) that "many people … diagnosed [as psychopathic] do not show such [brain] abnormalities, and many people who are behaviourally not violent do show them" [S. Rose, 2004]; this is hardly a sound basis for imputing a causal relationship between the two. There remains, moreover, the chicken-and-egg question as to whether observed cerebral anomalies are the *cause* of criminal behavior or the *result* of engaging in violence, or possibly a reaction to the experience of incarceration [Curran and Renzetti, 2001:55].

Some researchers in the field have gone as far as claiming that it is possible to home in on the genetic equivalent of phrenology's "organ of destructiveness" in the form of genetic markers for such behavioral traits as *aggressiveness*, *impulsivity*, or *antisocial behavior*—what is known popularly as a *crime gene*. Sociologist Troy Duster argues that there are *three* reasons why the conclusions reached by such research should be treated with the utmost caution [Duster, 2003:99–100]. First, he points out, what constitutes a "crime" varies over time and space, depending on such variables as the passage of law, policing practices, and the judicial system. The British suffragette movement in the early part of the twentieth century or the civil protests against U.S. racial segregation during the 1960s, both highly principled, carefully considered acts of civil disobedience, would not today be considered as manifestations of either social dysfunction or psychopathology [Rutter, 1996:1]. The second problem with research in this area is that the term *criminal* lumps together the one-time offender with the career criminal, the professional con artist with the corrupt city hall bureaucrat, the hit-and-run driver with the serial rapist. Even if we try to look for genetic similarities among offenders having committed the *same* offense, there is no way of controlling statistically for the fact that a particular criminal act may have been committed in very different

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circumstances and for very different reasons. It is likely, in such cases, that the genetic component would also vary widely. Finally, according to Duster, the definition of the "criminal" is further complicated by where to draw the line: is it to be considered someone who has *committed a crime*, someone who has been *convicted of a crime*, or someone who has been *sent to prison for a crime*? He notes that researchers have found that out of 1,000 burglaries committed, no more than 75 will lead to a custodial sentence. Yet it is at these—highly untypical!—burglars that researchers will look for data on the biological specificity of burglars as a whole. Duster reminds us that correlation does not mean causation, however much the result appears to bear "the seductive imprimatur of molecular genetic precision" [Duster, 2004:27].

For those researchers who have ventured into this methodological minefield, the results, as might be expected, are less than conclusive. Biologist Garland Allen has recently reviewed the evidence in this field, and he comes to the unequivocal conclusion that "human behaviour genetics at present can contribute little or nothing of use in determining the causes of certain human social behaviours—like criminality" [Allen in Lazer, 2004:294, 310]. That is not to say that genes play no role in human behavior, but simply that that relationship cannot be expressed in the form of *gene x causes behavior y*. As psychologist Sir Michael Rutter put it in one of two contributions to an influential collection of conference papers on the genetics of criminal and antisocial behavior [1996:266, 270]:

> Genes do not and cannot, code for socially-defined behaviours. Also, they do not lead people directly to commit criminal acts. That is, there may be an increased (in some cases greatly increased) propensity to aggression or antisocial behaviour, but whether or not the individual actually commits some criminal act will also be dependent on environmental predisposing factors and situational circumstances at the time.

Such caveats and reservations from the scientific community are not widely reported in popular science magazines or the wider media. As behavioral geneticists Gregory Carey and Irving Gottesman [2006] point out wryly (after having hedged their own conclusions on the subject with a whole battery of ifs and buts), "caution makes for weak headlines." It seems likely, therefore, that contrary to some of the predictions being bandied about both by forensic scientists and policymakers and their libertarian critics, we are unlikely in the foreseeable future to be able to identify reliable genetic markers for antisocial behavior [N. Rose, 2000]. However, even if these turn out to be unrealistic hopes or fears (depending on one's perspective), there remains a real danger that in focusing public debate and research effort on the search for genetic or other biological markers of deviance, a new legitimacy will be given to a crudely deterministic conception of criminal

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causation [Rabinow, 1992:17]. As we have seen in this chapter, this is no mere theoretical debate, because such a conception can have important policy implications, legitimizing policies of containment and biomedical "treatment" of offenders while playing down the relevance of social factors in the etiology of crime.

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Life Course Criminology

3

ARJAN A. J. BLOKLAND AND
PAUL NIEUWBEERTA

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3.1 Introduction

Why do children from the same neighborhood, or even from the same family, grow up to be so different? And why do people who show similar patterns of offending sometimes come from radically different backgrounds? Why is it that adult offenders often have juvenile records, but that most juveniles arrested do not grow up to be criminal adults? And what can we do to prevent delinquent adolescents from embarking on an adult life of crime? Whom should we best target for imprisonment? And how can we best prevent ex-prisoners from returning to a life of crime? Questions like these are at the heart of life course criminology, a blooming branch of criminology that has gained momentum over the last 20 years.

Endorsing a developmental perspective, Loeber and LeBlanc [1990] define what they call *developmental criminology* as the study of temporal, within-individual, changes in offending. Developmental criminology, they argue, is the study, first, of the development and dynamics of problem behaviors and offending with age, and second, of the explanatory or causal factors that predate, or co-occur with, behavioral development and have an impact on its course. Similarly, Farrington [2003] describes developmental and life course criminology to be concerned with documenting and explaining developments in offending throughout the individual's life. Developmental and life course criminology does so by focusing on three main issues: the development of offending and antisocial behavior, risk factors at different ages, and the effects of life events on the course of development. Others talk of life course criminology as studying "changes in delinquency and crime that are related to age in an orderly way" [Thornberry, 1997], "the evolution of crime over the life course" [Smith, 2002], or "real events, happening in real time and in real people's lives" [Blokland and Nieuwbeerta, 2006]. In their most recent book, Laub and Sampson [2003] strikingly summarize life course criminology as the effort of "making sense of lives."

The recurring theme in these definitions—and what sets life course criminology apart from mainstream criminological thinking—is life course criminology's special focus on *within-individual developments in offending over time*. Life course criminology occupies three main research questions, aspiring to

1. *Describe* developments in individual criminal behavior over time;
2. *Explain* why these developments take place; and finally, if possible, to
3. Describe and test the consequences of interventions, aiming to *redirect* these developments in ways perceived as beneficial and lead the individual away from crime.

With its focus on individual development, life course criminology poses a challenge to both criminological theory and the customary way

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of performing criminological research. Traditionally, criminologists have mostly been concerned with studying *between-group* differences in crime and had made comparisons between groups of individuals at one point in time [LeBlanc and Loeber, 1998]. Life course criminology, on the other hand, concentrates on *within-individual* developments in crime over time and recognizes that the causal factors influencing development may shift as the individual progresses along his or her behavioral pathway. This, in turn, asks for the temporal ordering of events and of the causal processes leading up to these events to be made explicit. Theories that attempt to more fully address these developmental and life course aspects of criminal behavior have been advanced only in the last 20 years [Thornberry, 1997; Farrington, 2005].*

To be able to study individual behavioral development across the entire life span, life course criminology also needed to exceed the limits of the available criminal data and find innovative ways to analyze this new information. The 1980s and 1990s witnessed a surge of new longitudinal studies, while previously initiated studies increasingly yielded data covering ever-larger parts of the life span [Thornberry and Krohn, 2003]. Together, fresh theories and newly tapped data sources acted as catalysts for new and increasingly sophisticated statistical analyses that could address the novel questions prompted. Given its broad scope and its capacity to enrapture theorists and empiricists alike, the life course approach has the potential to provide a suitable metatheoretical framework that can be used to integrate different theories explaining different aspects of crime and join existing empirical literatures on different topics that until now have been building up unconnectedly.

The remainder of this chapter is organized as follows. First, we consider the roots from which life course criminology has blossomed over the past two decades. Next, we explicate important elements of the life course approach and assess their repercussions in recent criminological theories. We then briefly review the available data and methods of analysis that have been used to study crime over the life course. In the second part of the chapter we review the empirical evidence describing the course of criminal trajectories as well as factors that have been proffered to help explain them. We also address the effects and problems associated with efforts to redirect criminal pathways, especially imprisonment. We conclude with a critical reflection of the current state of affairs in life course criminology and point to possible directions to allocate further research effort.

* Still, adopting a life course stance does not mean that one has to discard of all theoretical ideas that "classical" or—perhaps more aptly phrased—non–life course criminological thinking has yielded. As Farrington [2005] notes, once we start to realize that many of the circumstances traditionally studied to explain group differences in crime not only differ between individuals but also vary within individual lives, these ideas can be, and have already been, successfully adapted to fit the life course perspective.

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3.2 The Roots of Life Course Criminology

As with many ideas in science, tracing the exact origins of the life course approach to crime proves difficult. Many texts mention the first of Wolfgang's Philadelphia birth cohort studies, published in 1972 [Wolfgang, Figlio, and Sellin, 1972]. This study analyzed delinquent development up to age 17 in a sample of nearly 10,000 boys born in Philadelphia in 1945. Their finding, that more than half of the cohort's delinquency could be attributed to only a small proportion of the boys—6% of the cohort, 18% of the delinquents in the cohort—sparked the interest of both researchers and politicians in efforts to try to prospectively identify this highly active delinquent subgroup and subject its members to policies aimed at redirecting their delinquent development by either rehabilitation or incarceration.

Others take as the point of departure the 1986 report of the Panel of Research on Criminal Careers, organized by the National Academy of Sciences [Blumstein et al., 1986]. One of the major tasks of the panel was to assess the extent to which future criminal development could be predicted and to speak about the possible contribution of such predictions to policies of general and selective incapacitation. The panel's two-volume report provided many of the basic tools and much of the vocabulary needed to analyze longitudinal data on criminal behavior.

Yet while the Blumstein report and even the Wolfgang study are important hallmarks in the life history of criminology [Laub, 2004], a number of longitudinal studies predate them, most notably the work of Sheldon Glueck and Eleanor Glueck [1950]. The Gluecks studied the delinquent development up to age 32 of 500 boys remanded to Massachusetts reform schools during adolescence.* Their work has recently been brought back into the limelight, when John Laub and Robert Sampson unearthed the raw data of the Gluecks' study, digitized all information, and reanalyzed it using modern statistical methods [Laub and Sampson, 1988]. Interest in the lives of offenders goes even further back. Others may, for example, want to point out the life history approach taken by the Chicago School. There, Robert Park, a former newspaper reporter, sent his students out of the lecture rooms into the streets of a city in turmoil to document people's own stories. Many of the qualitative studies that were conducted by students of the University of Chicago's sociology department, like C. Shaw's [1930] *The Jack-Roller* and E. Sutherland's [1937] *The Professional Thief*, have now reached the status of criminological classics. Despite differences in methodology, what these studies share is an interest in the processes and dynamics of within-individual change in criminal behavior.†

* The Gluecks performed multiple longitudinal studies, including a 15-year follow-up of 1,000 juvenile delinquents referred to Judge Baker Clinic and a 15-year follow-up of 510 reformatory inmates.

† Adolphe Quetelet and other scholars had already studied the age-crime curve in the nineteenth century, but on aggregated data.

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3.3 Pillars of Life Course Criminology

Farrington [2003] encapsulates the foundations of what he calls *developmental and life course criminology* (or DLC for short) in four "pillars": (1) the criminal career paradigm, (2) the risk factor prevention paradigm, (3) developmental criminology, and (4) life course criminology. The *criminal career paradigm*, as articulated in the report of the Panel of Research on Criminal Careers, though largely atheoretical and policy oriented, has left a permanent mark on the longitudinal study of delinquency and crime. A criminal career is defined as the longitudinal sequence of crimes committed by an individual offender [Blumstein et al., 1986:12]. Major contribution of the criminal career researchers was to break up the aggregate crime rate in several dimensions each to be studied separately. The first of these dimensions is participation, which relates to whether one becomes an offender or not; a second important dimension is that of frequency, which refers to the number of crimes committed by participating offenders over a given period of time (usually referred to by the Greek letter lambda, or λ). The key assumption of the career paradigm is that these criminal career dimensions maybe influenced by different variables to different degrees [Blumstein and Cohen, 1987]. Other criminal career dimensions include duration, the time between first and last offense; and seriousness or crime-type mix, which refers to the nature of crimes committed while active. The driving force behind the criminal career paradigm were questions regarding policy and especially—though not exclusively—questions concerning the potential benefits of (selective) incapacitation [Blumstein, Cohen, and Farrington, 1988]. For estimating the effect of an increase in sentence length, for example, it is relevant to know whether individual offending frequency is stable or declines over time and what the expected residual career length is of the offender eligible for incapacitation. As such, the criminal career paradigm not only provided a range of conceptual tools to describe criminal development over time but also directly linked scientific research to policy outcomes. In line with its focus on official sanctions, criminal career research is mostly based on arrest or conviction data.

The second of Farrington's pillars is the *risk factor prevention paradigm.* The risk factor approach originally stems from medical research that aims to identify the variables that predict an increased probability of such various health outcomes as cardiovascular disease or cancer. Applied to delinquency and crime, the risk factor paradigm aims to identify factors that increase probability of later offending [Loeber and Farrington, 1998]. When Wolfgang, Figlio, and Sellin's [1972] finding that a small group of very active offenders was responsible for the majority of crime was replicated in other studies, researchers set out to find the risk factors that characterized this group of highly active and chronic offenders [Farrington, 2000]. Despite its name, the

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risk factor paradigm also focuses on protective factors, that is, on factors that decrease the likelihood of offending (and which may not always be merely the opposite end of a risk factor scale) [Loeber and Farrington, 1998; Rutter, 1985]. While many of the variables used to try to predict offending were taken from classical criminological theories, like the criminal career paradigm the risk factor approach does not entail efforts to systematically combine the various risk factors found in empirical studies in a comprising theory of delinquent development. Consequentially, risk factor research's primary focus is not on establishing causality and explanations (e.g., parental disharmony may be a risk factor because disruptive interfamilial processes cause delinquency in children, as well as because delinquency-prone children themselves are a major source of dissonance within the family) but predominantly on merely finding correlations [Farrington, 2000].

Developmental criminology, the third pillar of DLC, entails the study of the development and dynamics of antisocial behavior and delinquency as correlated with age and tries to identify the causal factors that influence the course that development [Loeber and LeBlanc, 1990]. Elaborating on the criminal career paradigm, developmental criminology quantifies a number of dynamic concepts capturing change and stability over time, distinguishing activation (the initiation and stimulation of offending), aggravation (the increasing seriousness of offending), and desistance (the winding down of offending) as distinct processes in the course of offending [LeBlanc and Loeber, 1998]. Compared to both the criminal career paradigm and the risk factor approach, developmental criminology is more theoretically driven. Influenced by developmental psychology, developmental criminologists have proposed stage models, wherein different types of offending follow a relative orderly sequence [e.g., Loeber and Hay, 1994]. Also, as in developmental psychology, the age period under scrutiny in developmental criminology mostly spans from birth to young adulthood. Given that from a developmental point of view the minimum age of legal responsibility is an arbitrary marker, developmental criminologists mostly rely on self-reports or third-party reports on the level and type of delinquent involvement. Furthermore, its focus on children and adolescents has led developmental criminology to also include among its dependent variables nondelinquent problem behaviors like bullying, truancy, or lying. Taken as a whole, developmental criminology aims to provide new insights about the etiology and precursors of offending that are of relevance to prevention and intervention programs aimed at terminating or diverting an individual's future criminal development [Farrington, 2002].

The fourth DLC pillar is *life course criminology*. At first glance, life course criminology differs most conspicuously from developmental criminology in that life course criminology focuses mainly on criminal development in adult offenders. Instead of focusing on parenting styles or delinquent peers, life course criminological research deals with the effects of such life events as

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work and marriage. However, behind these superficial differences are more fundamental theoretical discrepancies. First, the life course view holds that change is not limited to some "sensitive period" during early life but occurs throughout the entire life span. As a result, life course criminologists go through great efforts to follow their subjects far into adulthood. Laub and Sampson [2003], for instance, traced the original boys from the 1930 Glueck study, who by then had reached the age of 70, and ended up interviewing 52 of them. Second, life course criminology opposes to the lawlike notion of individual development—like the idea of developmental stages—that is present in much of developmental criminology [e.g., Loeber, Keenan, and Zhang, 1997]. Life course criminology, in turn, emphasizes variability and change in individual development that cannot be explained by preexisting differences between individuals. Within the life course paradigm one's criminal career is just one of many pathways one can embark on, be it one that has the potential to strongly affect development in many others. Recognizing the interdependence of developmental pathways in different life domains, researchers understand that hitches in other pathways may bring about radical changes in the individual's criminal career.

To these four pillars may be added a fifth, namely, that of *life history narratives*. Life history narratives reveal criminal development from "the inside out," because they offer personal accounts of the many processes that developmental and life course theories presume underlie patterns of criminal behavior over time. Following in the footsteps of the Chicago School pioneers, a number of researchers have opted for a qualitative take on development and have documented detailed life histories from a wide range of different offenders [e.g., Klockars, 1978; Shover, 1996; Steffensmeier and Ulmer, 2005]. While some of these studies only cover a demarcated period, others have had the opportunity to let offenders reflect on practically their entire life span. Life histories let offenders reflect on their lives in their own words. This approach not only encompasses the many different pathways a person embarks on but also lets offenders themselves speak on the interdependency of these pathways both within and between individuals. Furthermore, qualitative research, particularly among adolescents, may reveal aspects of social timing that dictate important transitions in their worlds and may even detect developmental stages that go unnoticed by merely using quantitative data. Finally, life history narratives may offer more detailed accounts of key criminal career characteristics like escalation or desistance.

3.4 Life Course Criminology Themes

Within life course criminology, the term *life course* refers to the wide array of age-graded trajectories people engage in during their lives, like work

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careers and family pathways [Elder, 1985]. Embedded in these trajectories are transitions, like becoming unemployed or having a child, that change the individual's current conditions and future options. Trajectories and their transitions are interdependent in that development or transitions in one trajectory influence the context and future progress in other trajectories. While emphasizing variability and change and rejecting lawlike notions of development, the life course approach does not picture individuals as unguided missiles bursting through time. On the contrary, the life course approach recognizes that individual development is shaped by different levels of a person's social context [Elder, 1995]. However, like possible sequences on a combination lock, each new level adds complexity, increasing the number of possible combinations, and ultimately resulting in the uniqueness of individual life courses. In an effort to understand individual development, the life course approach entertains four major themes [Elder, 1994, 1998]: location in time and place, timing of lives, linked lives, and human agency.

The first theme is that of *location in time and place*. Each historical period, each geographical place, is unique, bringing with it its own options and constraints; individual lives are bound to reflect these differences. For example, unlike Dutch children born later, those born in 1945 and early 1946 experienced exposure to prenatal famine because of the "Hunger Winter"—the period between September 1944 and May 1945, in which the German occupier blocked food supplies in retaliation for a railway strike to aid the Allied war effort. The severity of these conditions the children suffered depended heavily on their geographical location, with those in the urban areas in the Netherlands's midwest suffering the most. Results from the Dutch Hunger Winter Families Study have shown that severe nutritional deficiency in the first or second trimester of pregnancy is associated with increased risk of developing antisocial personality disorder by age 18 [Neugebauer, Hoek, and Susser, 1999].

A second theme is the notion of the *timing of lives*. Understanding the timing of lives is important, since critical life events may have very different consequences depending on when in the individual's life course they take place. Sometimes a delicate touch is required: findings from the just-mentioned Dutch Hunger Winter Families Study showed that nutritional deprivation in the third trimester, as opposed to the second or first, did not elevate the odds of developing antisocial personality disorder. The notion of the timing of lives is also directly linked to that of location in time and place. Expectations based on age regarding the incidence, duration, and sequence of behaviors and social roles tend to vary between historical eras and geographical location [Neugarten and Datan, 1973]. For instance, because of steep increases in the age of entering marriage and parenthood and the lengthening of higher education, young people in the United

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States and other industrialized countries have been claimed to go through a new developmental phase dubbed "emerging adulthood," which neither simply extends adolescence because it is freer of parental control, nor can be viewed as early adulthood, since most young people have not begun to make the transitions traditionally associated with adulthood [Arnett, 2004]. In turn, this prolonged period of exploration may partly explain why even individuals with nonproblematic childhoods are found to postpone desistance and remain criminally active until later ages [Moffitt et al., 2002].

The third theme, of *linked lives*, draws attention to people's social embeddedness. Development does not take place in social isolation: individual action has consequences for others, and the actions of others relate back to the individual. The family is an obvious example of a social institution that connects the lives of many people over many generations, linking partners to each other, partners to in-laws, parents to children, children to siblings, and grandparents to grandchildren. The strength of these ties is again dependent on age as well as developments in other life domains. Research by Meeuws, Branje, and Overbeek [2004], for example, found that the importance of parental support in curbing delinquency decreased as adolescents acquired a stable romantic partner. At the same time, however, with age, parental support became increasingly important for those adolescents and young adults who never had a romantic partner, suggesting a reaffirmation of the parent-child relationship as prospects of other relationships diminished.

Fourth and finally, *human agency* recognizes that individuals are capable of continuously making choices that can influence the course of their development. People do not float rudderless across life's sea, victim to the macrosociological currents. Instead, the life course perspective sees people as actively constructing their own development, given the historical constraints and opportunities available to them. The idea of human agency goes beyond mere selection—the notion that people actively seek out environments that fit their qualities—in that agency itself is variable and is influenced by environmental factors. The importance of agency is illustrated by the narratives of offenders in the Liverpool Desistance Study. Maruna [2001] compared the self-narratives of 30 desisting and 20 persisting offenders matched as closely as possible on age, gender, family background, and criminal histories. He found that persistent offenders were more likely to subscribe to a "pawn" story of self; feeling that life outcomes were largely dependent on circumstance and change events and lacking a language of agency or self-initiative. Desisters, on the other hand, actively made efforts to regain what they saw as their true self and often referred to the desisting process as willfully "going against the grain" [see also Laub and Sampson, 2003:55].

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3.5 Life Course Criminology Theories

Over the years, various explanations—typically based on classic criminological theories—have been offered to account for important aspects of individual criminal development. Many of these explanations, however, had somewhat of a post hoc character, and often uncomplicatedly generalized results from aggregated, cross-sectional data to individual, longitudinal behavioral patterns. Over the past decades, though, there has been substantial progress in life course criminological theory. Scholars have formulated their theories more explicitly and integrated several developmental issues into a common theoretical framework. For an overview of some of the influential life course criminological theories, we refer to recent systematic reviews by Farrington [2005, 2006]. For the sake of brevity here, we suffice with discussing what are without doubt the three most influential and most often cited reviews: Sampson and Laub's age-graded social control theory, Moffitt's dual taxonomy, and Gottfredson and Hirschi's self-control theory. Besides being influential, these theories also conveniently illustrate the different ways the various life course themes have found their way into criminological theory.

3.5.1 Sampson and Laub's Age-Graded Social Control Theory

Main theorists in life course criminology have been Robert Sampson and John Laub. In numerous articles and two influential books, Sampson and Laub report the empirical results of their 60-year follow-up of 500 ex–reform school pupils first studied by the Gluecks and disclose their age-graded theory of informal social control. The basic argument of their theory is that criminal involvement results from a lack of informal social controls and that what constitute appropriate sources of social control varies throughout life [Sampson and Laub, 1993; Laub and Sampson, 2003]. Important transitions in other life course domains yield changes in the level of informal control and can therefore act as *turning points* for crime [Sampson and Laub, 1993; Laub and Sampson, 2001]. Although Sampson and Laub do recognize that individuals may select themselves in certain transitions, the researchers claim that many of these transitions are to a large extent "chance" events, occurring or not occurring independently of the individual's characteristics [Laub and Sampson, 2003:45]. The theory views both desistance and persistence in crime as outcomes of the same general causal process. While increasing ties to conventional society aid desistance from crime, criminal behavior itself may deteriorate already weak ties or cut off opportunities for conventional development, resulting in even lower levels of social control and making future crimes even more likely. Sampson and Laub [1995] refer to this downward spiral—offending, weakened ties, and more offending—as *cumulative continuity of disadvantage*.

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3.5.2 Moffitt's Dual Taxonomy

Similar ideas resonate in Moffitt's account of limited offending in adolescence, which comprises one-half of her dual taxonomy [Moffitt, 1993]. In her longitudinal investigation of a representative cohort of 1,037 New Zealand children born in the early 1970s, Moffitt found that while most boys had no notable history of antisocial behavior before age 11, 93% reported some form of delinquent activity by age 18. Moffitt's theory explains this "tidal wave" of adolescent-onset delinquency as the product of the adolescent's desire for mature status and a modern social structure unequipped to provide this status at an early age. Whereas traditionally biological and social age tended to coincide, modernization has pushed the age of biological maturation down and that of social maturation up, resulting in what Moffitt [1994] refers to as the *maturity gap*. For want of something better, delinquent behavior becomes a release for the need for personal autonomy, defying the moral authority of the preceding generation and at the same time providing adult tokens like money and consumer goods. However, with age, legitimate adult social roles increasingly become available to these youths, and reinforcement contingencies for delinquent behavior begin to shift. Not burdened by the outcomes of a compromised childhood, adolescence-limited offenders progressively become more committed to conventional pathways, which consecutively leads them to discontinue their delinquent lifestyle.

Adolescence-limited offenders, however, constitute just one part of Moffitt's dual taxonomy. The other, far less ubiquitous taxon she proposes is formed by life course persistent offenders, hypothesized to comprise about 5% of all offending adolescents [Moffitt, 1993]. Other theories make similar distinctions [e.g., Patterson and Yoerger, 1993; Lahey and Waldman, 2005; Thornberry and Krohn, 2005]. According to the Moffitt taxonomy, life course persistent offenders are best seen as products of neuropsychological dysfunctions, combined with failed childhood socialization, culminating in antisocial behavioral patterns increasingly resistant to change and likely to persist throughout life. Life course persisters' underlying constellation also influences major transitions in the life course domain other than crime, and opportunities for change are often transformed in opportunities for continuity: military service provides a chance to learn to handle weapons, a new job provides new opportunities to steal, and a fresh marriage provides a new victim for spousal assault [Moffitt, 1997]. Life course persisters' individual characteristics are thus believed to cut through all causal domains, rendering contextual change unimportant in their behavioral development.

As such, Sampson and Laub's age-graded theory and Moffitt's theory of adolescence limited offending both underwrite core elements of the life course approach. First, both argue that development is context dependent. Second, they stress the interdependency of the many different trajectories that make up the life course and the importance of transitions within these

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trajectories in constituting potential turning points for behavior. Especially Moffitt's adolescence limited theory is also closely linked to a particular location in time and place. In her view, the mismatch between biological and social maturation and the delinquent patterns that result from it, are by-products of modernization and therefore only characteristic for the twentieth-century Western world. The theory of adolescence limited offending also incorporates the notion of timing of lives. Part of why delinquent behavior is increasingly costly is because with age it is increasingly perceived as "off-timed," that is, as part of the wild oats that already had to have been sowed.

3.5.3 Gottfredson and Hirschi's Self-Control Theory

The (re)introduction of the life course approach in criminology in general that has been taking place over the last 20 years and the work of Sampson and Laub and Moffitt, in particular, has not gone uncontested. In fact, it has evolved against the backdrop of theorists arguing that personal characteristics draw so heavily on individuals' choice-making abilities, that they drive them to choose social contexts to match these characteristics. These theories argue that if personal characteristics underlie behavioral outcomes as well as choice of social context, attributing causal power to contextual factors in shaping behavioral development would be fallacious. Representatives of this ontogenetic view are Gottfredson and Hirschi [1990], who not only argue that this line of reasoning is valid for a small minority of adolescent offenders but also maintain that it is applicable to the entire population.

In Gottfredson and Hirschi's view, criminal development is inversely linked to a person's level of self-control. Self-control also shapes individuals' agency in such a way that individuals tend to select themselves into environments that match their self-control levels, rendering the causal relationship between certain social contexts and crime spurious [Hirschi and Gottfredson, 1995]. Gottfredson and Hirschi [1983, 1990] go on to argue that individual development mirrors the shape of the aggregate age-crime relationship, which they claim to be similar across individuals, places, and historical times. They further state that no variable other than age can offer an explanation for the way criminal involvement waxes and wanes. In the eyes of these scholars, the invariability of the age-crime curve in turn releases criminologists from the need to do longitudinal research, rendering Gottfredson and Hirschi important antagonists of the life course perspective on crime both theoretically and methodologically [Gottfredson and Hirschi, 1986, 1987].

3.5.4 Summary of Theoretical Discussion

Although differences in opinion continue to exist on what, for example, counts as persisting in crime and whether or not persistent offenders constitute a

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separate group that can be meaningfully distinguished at an early stage, in hindsight much of the dust raised around the life course perspective seems to have whirled around whether the proverbial glass was either half full or half empty. Most life course criminologists acknowledge the influence of stable individual characteristics on development and have sought ways to incorporate such differences in their theoretical and empirical work. Similarly, many adversaries still consent to the notion that some exogenous influences are involved in development.

If anything, the counterpressure of Gottfredson and Hirschi and others has inspired life course criminologists to refine their research questions and improve their methods of investigation in their continuous effort to make even better sense of lives. Aiming to adequately describe and explain development in criminal behavior over time, longitudinal data have now become the hallmark of life course criminology.

3.6 Life Course Criminological Data

Much of the empirical foundation underlying "classical" criminological theory comes from cross-sectional studies, which by definition examine many different individuals at one point in time. Although these studies have yielded important insights on the correlates of delinquency and crime, cross-sectional studies are less suited to speak on developmental issues. For instance, many cross-sectional studies are based on offender samples drawn from such databases as police records or prison populations. Reports on why and how these people started their criminal careers are therefore exclusively retrospective and possibly biased because the offenders arepresently involved in crime. In sampling only active offenders, these cross-sectional studies are also unable to reveal why people may desist from crime. Finally, since all information is gathered at one point in time, the causal nature of the associations revealed remains opaque [Menard, 2002].

Liberman [2008] readily highlights the importance of a longitudinal approach by stating that when planning interventions, what we really want to know is whether we are capable of making changes to the constellation of risk factors an individual is exposed to. Will this *same* individual behave any differently than before? This is a question that can best be answered by following the same individual over time. More generally put, cross-sectional studies have a hard time establishing precise temporal order; consequently, causal inferences from such studies need to be interpreted with due caution. While different types of longitudinal studies continue to be initiated, the pith of empirical life course criminology seems to move from *cohort studies*, through *panel studies*, to *multiactor studies*.

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Cohort studies, like the Philadelphia study previously mentioned, do follow the same respondents over time. Respondents in cohort studies either share some characteristic, for example, their year and place of birth (birth cohorts), or have simultaneously experienced a life event, for example, a stay in a juvenile justice institution (event cohorts). Numerous cohort studies have been undertaken in the United States and elsewhere [e.g., Nevares, Wolfgang, and Tracy, 1990; Tracy, Wolfgang, and Figlio, 1990; Kyvsgaard, 2003; Blokland and Nieuwbeerta, 2005]. While especially birth cohort studies have tended to be large scale, their focus has been mainly on the late childhood to early adulthood period. In addition, most cohort studies are based only on official data. As a consequence, although these studies have fewer problems in establishing temporal order, their data typically harbor a small number of explanatory variables, especially when conducted in the United States. Although some European countries' official registers yield data on a much larger number of life course domains, such good indicators of important causal mechanisms as family practices, job satisfaction, and marital quality remain absent. Finally, cohort studies have trouble in separating age from period effects: any behavioral trend observed in a single cohort could result either from the effects of age or from historical events specific to years or periods, regardless of age [Gottfredson and Hirschi, 1987].

Fed by detailed descriptions of the various dimensions of the criminal career, their interrelations, and the way such dimensions develop over the lives of individuals, criminologists increasingly became developmentally orientated and began to produce theories that explicitly incorporated time in their explanations. To satisfactorily test these new theories, data on variables tapping into the causal mechanisms that were being put forward were necessary. This was the kind of longitudinal data the typical cohort study did not provide. To overcome these shortcomings, individual-level *panel studies* started to emerge, following subjects over time with repeated measures gathered at regular intervals. Besides self-reports on antisocial behavior and crime, panel studies usually require their subjects to convey a variety of individual and contextual characteristics, the precise nature of which depends on the theoretical framework under scrutiny. Among the panel studies that have helped shape contemporary life course criminology are the Cambridge Study in Delinquent Development; the Pittsburgh, Denver, and Rochester Youth Studies; and the Dunedin Multidisciplinary Health and Human Development Study [for more complete overviews, see Piquero, Farrington, and Blumstein, 2003; Thorberry and Krohn, 2003]. For panel studies to be able to speak on the timing of lives and the mechanisms underlying behavioral change, the frequency of measurement must be reasonable dense. If causal lags between variables are small, large temporal lags in measurement waves would still make variables appear to occur simultaneously. In efforts to isolate age, period, and cohort effects, innovative, accelerated panel designs, including multiple, partly overlapping cohorts, have been initiated [Menard, 2002].

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While panel studies gather rich data, sometimes using multiple informants, they tend to view individual development in relative isolation. That is, while panel studies involve information on the individual's social context, including family and friends, they typically do not link developmental pathways of different individuals. *Multiactor studies* do just that, thereby paying homage to the life course idea of linked lives. The Cambridge Study in Delinquent Development, for example, was augmented with data on the criminal histories of both the parents and children of the 411 boys originally sampled, thus linking criminal development of family members across three generations [Farrington, Coid, and Murray, 2008]. Similarly, starting out as a cohort study, the Criminal Career and Life Course Study now includes information on the criminal careers of those convicted in 1977 and also on the criminal careers of all their lifetime marriage partners and their children [Van der Rakt, Nieuwbeerta, and De Graaf, 2008]. Gathering longitudinal data on individuals tied by social relationships helps to more fully appreciate the way individual development is embedded in social relationships that form and dissolve across the life span.

3.7 Longitudinal Methods: Taking Observed Heterogeneity into Account

With more and more longitudinal data becoming available, life course–oriented criminologists began to look for adequate ways of analyzing this information. Within the context of life course criminology's aims, stated in the introduction of this chapter—describing, explaining, and redirecting developments in criminal behavior over the life course—we discuss some of these methodological developments.

3.7.1 Describing Developments over the Course of a Person's Life

One of the major aims of life course criminology is to adequately describe the development of criminal behavior over the life span. The simplest way of visualizing such development is to plot the behavior of interest—for example, the frequency or severity of delinquency and crime—against age. This can be done for the entire sample under scrutiny or for subgroups defined by such personal characteristics as sex and ethnicity.

For growth processes concerning which it seems reasonable to assume that individuals develop in a more or less typical fashion, plotting the average developmental pathway may be well suited. However, when individual variation in development is expected, as is the case with criminal development, more complicated methods are needed that do justice to the complexities of the data gathered. That is why criminologists have turned to multilevel growth curve models or simply growth models [Bryk and Raudenbush, 1992].

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These models allow for individual variation in the rate and shape of the developmental pathway and are able to link variation in these growth parameters to individual characteristics. Still, these models assume average trends and express developmental variation in terms of variance around the average growth within the population. Theorist like Moffitt and Patterson, for example, state specifically that there are different types of offenders showing qualitatively distinct developmental pathways and that the average age-crime curve is an amalgam of very differently shaped developmental pathways. When it comes to criminal development, growth curve models therefore seem to make little intuitive sense.

More recently, scholars have developed a group-based, latent class approach for modeling criminal trajectories [Nagin and Land 1993; Nagin, 2005; Muthén 2001]. These models are more in line with theories assuming that there is no general trend in criminal behavior, but different groups of people have different trajectories. Group-based models approximate individual developmental variation by a number of discreet groups. As in growth curve models, the outcome variable is linked to age by some polynomial function; but unlike growth curve models, the group-based model allows the parameters of this function to vary freely across groups. As a result, the estimated course of development for each group can be very different both in level and time path. In addition to the trajectories themselves, the group-based model produces an a posteriori probability of membership for each individual in the sample and for each of the distinguished trajectory groups. These probabilities indicate the likelihood that an individual showing a specific behavioral pattern belongs to one of the specified groups. These probabilities can be used for creating descriptive profiles of each group by assigning each individual to the trajectory group for which his posterior probability of group membership was highest [e.g., Van der Geest, Blokland, and Bijleveld, 2008].

Group-based models have become a popular way of analyzing criminal development [for reviews, see Piquero, 2008; Van Dulmen et al., 2009]. Yet, some researchers—and the models' architect in in the lead [see Nagin, 2005]—have warned against the unintelligible use of the method and pointed at common misconceptions in interpreting its outcomes [e.g., Eggleston, Laub, and Sampson, 2004; Nagin, 2004, 2005; Nagin and Tremblay, 2005a]. In the context of this chapter, we highlight three such misconceptions. First, group-based methods essentially provide a statistical tool to reduce complexity in longitudinal data sets following many individuals over time. Any trajectories distinguished describe long-term behavioral patterns but leave room for short-term individual variability. Individuals, thus, do not necessarily develop exactly according to the trajectory they are allocated to [Nagin and Tremblay, 2005b]. Second, while partly inspired by typological theories, the mere finding of developmental trajectories in a particular data set does not

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provide a confirmation of these theories. While the shape of the trajectories distinguished combined with the offender profiles associated with them may indicate a certain theory as promising, a true test would involve determining whether different groups of offenders are distinct in the causal mechanisms that govern their criminal development [Sampson and Laub, 2005]. Finally, while certain risk factors may elevate the probability of following a certain trajectory, not all individuals following that trajectory share these risk factors and, perhaps more important, not all individuals with those risk factors follow that particular trajectory. Interventions aimed at a distinct group of individuals defined by their risk factors thus inevitably lead to many false positives. Population-based interventions targeting risk factors specifically associated with high-rate offending trajectories may, on the other hand, be productive [Nagin and Tremblay, 2005b].

3.7.2 Explaining Developments over Life: Estimating Effects of Life Course Events and Interventions

When trying to explain changes in criminal behavior by life course transitions, or when evaluating the effects of some intervention aimed at redirecting criminal development, one of the biggest hurdles life course criminologists must overcome is to properly account for variables that may produce spurious association between the transition or the intervention and crime. The preferred method to exclude the effect of confounding variables is to conduct an experiment where individuals are assigned to transitions or interventions in a completely random fashion. Randomization has the effect that all variables—whether observed or unobserved—except the assigned transition, are balanced. While some transitions, like getting a job, could be candidates for random allocation, other important life course transitions like marriage, parenthood, or long-term imprisonment are probably less suitable. The methodological challenge life course researchers therefore face is to come up with methods that can be used to make causal inferences based on observational, rather than experimental, data. Besides being methodologically challenging, controlling for confounding variables is theoretically salient, given that there are theories that ascribe criminal development only to stable characteristics and explicitly deny causal impact for contextual factors [Hirschi and Gottfredson, 1995].

The easiest and most often used method to control for underlying factors is within a regression framework. To control for confounding influences, besides using an indicator of the transition or intervention of interest, one simply adds variables representing possible confounders to the regression model. Likely confounders to be included in such models are demographic characteristics and variables describing criminal history. If the model is specified correctly, the model will represent the effect of the transition or

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intervention net of the influence of the confounders added. The most important drawback to using regression models is that they only control for variation in observed characteristics, or observed heterogeneity. As a result, variation in unobserved characteristics, or unobserved heterogeneity, may still unsuitably influence any association established.

In an effort to overcome problems caused by unobserved heterogeneity, criminologists have turned to models that have allowed them to analyze within-individual change. These kinds of models make optimal use of the longitudinal data becoming available, because they compare the behavior of the individual after undergoing the transition or intervention to that of the same individual before undergoing the transition or intervention [Osgood, 2005]. In within-individual change analyses, the individual thus acts as his or her own control, thereby nullifying the confounding effects of time-stable individual characteristics, both observed *and* unobserved. Such models have been applied in criminology to estimate the effects of such important life course transitions as finding employment, getting married, or becoming a parent [Blokland and Nieuwbeerta, 2005; Horney, Osgood, and Marshall, 1995; Laub and Sampson, 2003; Layton MacKenzie and De Li, 2002]. Although within-individual change models suffer far less from omitted variable bias than do regression models, they only control for confounders that themselves do not change over time.

Another way of modeling selection resulting from confounding variables that has recently found its way into life course criminology is propensity score matching. A propensity score is the conditional probability of experiencing a transition rather than the control given the observed covariates [Rosenbaum and Rubin, 1983]. In the life course context, the propensity score could, for instance, represent the conditional probability of being married at age 25, given observed covariates up to that age. If two individuals have the same propensity score observed covariates—both time stable as well as time varying—these observed covariates will be of no further use in predicting which of these two individuals will be married at age 25. The next step in propensity score matching involves matching the individual experiencing the transition with an individual—or several individuals—with a comparable chance of experiencing the transition but who in actuality does not experience the transition. Comparing posttransition outcomes for matched individuals will yield estimates of the effect of the transition net of time-stable and time-varying observables. In the marriage example, propensity score matching would entail comparing criminal behavior in the 26–30 age period for those who were married at age 25 with that of those who were, in important respects, similar to those married but who themselves were not married at age 25. Nevertheless, if as a result of unobserved cofounders the applied propensity model is not entirely successful in capturing selection into marriage, the resulting effect of this transition may still be compromised.

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Sensitivity analyses can be conducted to test the robustness of the obtained effect against the presence and magnitude of unobserved confounding.

3.8 Empirical Research in Life Course Criminology

The growing amount of available longitudinal data, combined with increasingly sophisticated analytic methods, has yielded an enormous amount of empirical findings. We now highlight some of these findings as they reflect the aims of life course criminology cited in the opening paragraph of this chapter: describing, explaining, and redirecting criminal behavior.*

3.8.1 Describing Developments over the Life Course

The 1986 report of the Panel of Research on Criminal Careers distinguished three important dimensions that together demarcate the criminal career: participation, frequency, and duration. *Participation* asks how many people actually engage in criminal behavior over their life course. Using data from the first Philadelphia birth cohort study, Wolfgang, Figlio, and Sellin [1972] found that of those boys born in 1945, little over one-third had experienced a police contact by the time they reached 18. The second Philadelphia birth cohort study, following up a sample born in 1958, yielded a comparable participation rate [Tracy, Wolfgang, and Figlio, 1990]. Results from a Dutch cohort study tracking the entire Dutch population born in 1984 found that by the time cohort members had reached 22 years of age, 14% had at least one police contact [Grimbergen et al., forthcoming]. Age 25 participation in the Swedish project Metropolitan reached 19% [Wikström, 1990]. Tracking the lives of 411 London working-class males, the Cambridge Study in Delinquent Development indicated that by 50 years of age, 41% of the men were convicted [Farrington et al., 2006]. Visher and Roth [1986] reviewed several longitudinal studies and estimate a lifetime participation rate of 40–50%. In contrast, self-report studies in the United States and elsewhere have yielded participation rates close to 100%, with the vast majority of people reporting behaviors that could have resulted in a criminal conviction. Comparing participation rates across different age periods tells us that for both official records and self-reports, the peak period of first participation or onset is before age 18. In sum, most people seem to engage in criminal acts sometime during the course of their lives; and for many, their criminal behavior results in some kind of criminal justice involvement.

* For extensive reviews: Farrington [2003] summarizes the empirical data by distinguishing established knowledge and contentious issues; Piquero, Farrington, and Blumstein [2003] also provide an elaborate overview of the empirical status of criminal career research.

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Estimates of the *frequency* of offending differ widely across studies, depending on the nature of the sample, the time period under study, and whether official or self-report data were used. The criminal careers of the Dutch-born offenders in the Dutch Criminal Career and Life Course Study averaged about 11 convictions [Blokland, 2005]. The distribution of conviction frequencies was highly skewed, however. About one-third of the 1977 offenders being convicted only once or twice, but the 5% most active offenders being convicted over 40 times. In the high-risk sample of the Cambridge Study, the average criminal career up to age 50 comprised five convictions (excluding driving offenses) [Farrington et al., 2006]. Self-reports revealed, however, that behind every conviction there were on average 39 offenses. One of the first efforts of estimating actual yearly offense rates were the Rand Inmate Studies. These studies questioned inmates about their criminal activity in the period preceding their imprisonment and arrived at yearly estimates of 15 and 50 burglaries, and between 5 and 22 robberies. Later studies using more refined methodologies adjusted these initial estimates downward [Rolph and Chaiken, 1987; Visher, 1986; see also Horney and Marshall, 1991]. Summarizing the literature on offending frequency, Spelman [1994] concludes that the average offender commits about eight crimes a year, whereas offenders that are imprisoned at some point in their criminal career commit as much as 30 to 50 crimes per year. In the year directly preceding their imprisonment, incoming prisoners may commit as much as 100 crimes. The distribution of offending frequency is highly skewed, with most offenders offending at low frequencies and few offenders offending at much higher rates [see also Visher, 2000].

Criminal career *duration* is defined as the period between the first and last offense. Lacking data spanning a long enough period, a number of early studies have tried to produce estimates on how long people actually engaged in criminal behavior [e.g., Greenberg, 1975; Shinnar and Shinnar, 1975]. Using data from the early 1970s, one of the most sophisticated of these earlier studies, by Blumstein, Cohen, and Hsieh [1982], yielded duration estimates ranging between four and seven years. Later studies have come up with similar results [e.g., Spelman, 1994]. In the absence of longitudinal data covering the entire life span, these early studies had to make a number of assumptions about criminal careers and the offender population. With time, however, samples in ongoing longitudinal studies grew older and criminal career data became available for increasingly longer periods of time, allowing career duration to be observed, rather than estimated. For instance, Piquero, Brame, and Lynam [2004] studied the data from the California Youth Authority and examined the criminal career duration of 377 male parolees. They found the majority of the criminal careers spanned 15 to 20 years. Official data on a 1953 birth cohort followed up to age 40 showed the average criminal career duration to be 9.7 and 5.6 for males and females, respectively [Tarling, 1993].

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Based on data up to age 50, Farrington and his colleagues [2006] found the average criminal career in his sample of London working-class boys to be 9 years. Farrington, Lambert, and West [1998] also studied the length of the criminal careers of the boys' parents and found that the average career duration for the older generation was 15–16 years. Criminal career duration in the Dutch 1977 conviction cohort studied by Blokland and Nieuwbeerta was 15–26 years, depending on the age of conviction in 1977 and excluding one-time offenders [Blokland, 2005]. Both frequency and criminal career duration are linked to age of first participation: early onset is associated with longer career duration and higher offending frequency [Blumstein, Cohen, and Hsieh, 1982; Visher, 2000]. Boys in the Cambridge study, for example, who first participated in crime between ages 10 and 13, had an average career duration of nearly 12 years incurring nearly 9 convictions, compared to those offenders experiencing onset between ages 21 and 30, had criminal careers that averaged 2 to 3 years, and on average incurred 1.8 convictions [Farrington, Lambert, and West, 1998].*

With the advance of the group-based methodology in the early 1990s, criminologists were provided a methodological tool to summarize the different combinations of the three criminal career dimensions identified in the panel's report in a number of developmental trajectories [Nagin and Land, 1993]. Two recent reviews together identify more than 80 studies that have used a group-based method to describe developmental pathways in their data sets [Piquero, 2008; Van Dulmen et al., 2009], and new studies continue to surface [Van Domburgh et al., 2009; Van der Geest, Blokland, and Bijleveld, 2008]. Although the number and shape of the trajectories identified differ between studies, a number of key findings emerge from these reviews. First, not all trajectories are similarly shaped and not all follow the shape of familiar age-crime curve as is evident from cross-sectional data. Trajectories differ in the age of onset, the speed of activation, and the height and timing of the peak, as well as the rate of desistance. Second, despite differences in shape, most trajectories show the rate of criminal behavior to decline when offenders start to reach adulthood. Third, most studies find trajectories that show a sharply peaked pattern. Many also find one or more "chronic" patterns: pathways showing markedly less variation in mean offending frequency across age. Finally, trajectory studies have identified a pathway not predicted by most developmental theories. In this late onset pathway, offending is virtually absent until middle to late adolescence, but after that it starts to rise [e.g., Van der Geest, Blokland, and Bijleveld, 2008]. During the adult period, offenders on this pathway continue to offend at levels much higher than that of the majority of the population under study.

* Piquero, Farrington, and Blumstein [2003] provide a more extensive review of the empirical knowledge on criminal participation, offending frequency, and criminal career duration.

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Finally, researchers have studied the content, or *crime mix*, of criminal careers. An important question researchers were keen on answering was whether or not offenders tend to specialize in offending over time. Different studies have defined what is meant by *specialization* in offending in very different ways, depending on the methods used in these studies. Broadly speaking, two types of specialization can be distinguished. First, specialization can be defined as a tendency to repeat the same or a similar type of crime on subsequent occasions. If this tendency becomes stronger with every subsequent offense, it might signal a causal effect of prior offending on future offending, perhaps through learning. Second, specialized offending can be defined negatively as the absence of diversity. Moffitt's dual taxonomy predicts between-individual differences in offending versatility, with persistent offenders being most versatile [Moffitt, 1997]. Both lines of research have found evidence of specialization, but often amid much versatility [Piquero, Farrington, and Blumstein, 2003:455]. That is, while offenders do seem to repeat the same kind of offense more often than could be expected by chance, the image of the highly specialized "professional" offender, as might have been derived from earlier qualitative studies, requires adjustment. At least during adolescence, persistent offenders do seem more versatile than nonpersistent offenders [Mazerolle et al., 2000]. There is also some evidence to suggest that offending versatility declines with age [Piquero et al., 1999; Mazerolle et al., 2000]. Recently Francis and others [2004] designed a clustering approach, not unlike that used to distinguish trajectories, for identifying clusters of offense types that commonly go together. Applying this methodology to a cohort of British offenders, these researchers were able to show that offenders in the Criminal Career and Life Course Study showed continuity in offense clusters across age, which, recognizing that crimes are not isolated events but are, instead, embedded in the daily lives of offenders, was interpreted as stability in the underlying lifestyle that was giving rise to the behavioral pattern [Blokland et al., 2007].

3.8.2 Life Course Developments at the Micro Level

We have mentioned that in their efforts to explain the developmental course of individual criminal careers, life course criminologists have turned to the influences of important transitions in trajectories other than that of crime. Most research focuses on important life course transitions that based on DCL theories are expected to contribute to desistance from crime. Since in many DLC theories desistance is thought to result from increasing ties to conventional society, the life course transitions studied foremost represent transitions that subject individuals' routine activities to higher levels of social control, like joining the military, becoming employed, and starting a family.

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Yet, realizing that over the life course people circle in and out of these states of intensified control, life course criminology has also focused on the effects of unemployment and divorce.

3.8.2.1 Military Service

Joining the military is considered an important life event for many young men (and women) in modern Western societies [Elder, 1986]. For those volunteering for service, the military may offer a way out of poor living conditions or a stressful social environment. Military service may also provide a stable source of income and the opportunity to learn skills beneficial in civilian life. By the same token, however, those drafted may find their academic or employment careers disrupted and their social relationships burdened by long periods of absence. In addition, during times of conflict, the atrocities of war may scar soldiers physically and mentally, thereby permanently altering their developmental prospects in many life course trajectories, including crime.

Empirical studies of the effects of military service on subsequent criminal development have yielded contradictory results. A number of studies find evidence of behavioral continuity across age and find military service to have little or no impact: those reporting to have engaged in crime prior to joining the military also reported committing crimes while in service and after discharge [Allen, 2000; Allen Bouffard, 2003; Hakeem, 1946; Lunden, 1951]. In the only study thus far, to our knowledge, that used non-American data, Van Schellen and Nieuwbeerta [2007] found no effect of military service in Dutch men drafted for military service, once personal characteristics were properly controlled for. Other studies have found that military service can have a dampening effect or subsequent criminal involvement. Reporting on the delinquent development of over 900 boys, Mattick [1960] found that military service reduced later delinquency. Similar effects were reported by Sampson and Laub [1993, 1996; Laub and Sampson, 2003, 2004] in their analysis of the criminal careers of the 500 reformatory pupils first studied by Sheldon Glueck and Eleanor Glueck. Those respondents that had joined the military had a higher probability of refraining from crime. In addition, often referring to the training received in the service and the benefits received after discharge, several of the men who desisted from crime described the military as an important turning point in their lives [Sampson and Laub, 1996; Laub and Sampson, 2003].

The interplay of lives and historical time seems especially important here. The studies that did find beneficial effects of military service comprised men who spent their time in the military during either World War II or Korea. For the soldiers who served in Vietnam, military service actually had a criminogenic effect [Shaw, Churchill, Noyes, and Loeffelholz, 1987; Resnick, Foy, Donahoe, and Miller, 1989]. Many men returning from Vietnam suffered from

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posttraumatic stress disorder and other emotional and behavioral problems that impacted heavily on their future prospects [Yager, Laufer, and Gallops, 1984; Wilson and Zigelbaum, 1984]. Others have pointed to the widespread (mis)use of drugs among American soldiers, a habit many brought with them on their return home [Wright, Carter, and Cullen, 2005]. Finally, recent longitudinal research by Bouffard [2005] studied levels of self-reported crime in young men who joined the military, as either volunteers or draftees. This research showed that while, on average, military service had no effect on subsequent levels of self-reported criminal behavior, effects were found when the sample was disaggregated into several subgroups. For Afro-American boys, military service led to a decrease in self-reported delinquency, whereas for those of low socioeconomic status or reporting prior delinquency, the opposite effect was found.

3.8.2.2 Work

Legitimate work has a number of features that make it a good candidate to curb delinquency and crime. Work reduces the economic need for crime, exposes the worker to the social controls of the workplace, restructures daily routines, and through commitment and stability may lead to internalized sources of control and a conformist sense of self [Sampson and Laub, 1993; Uggen and Staff, 2001]. Therefore, for many criminologists and policymakers alike, the notion that employment prevents crime is to state the obvious [Hirschi, 1983]. Nevertheless, the empirical findings on the effects of work on crime seem less straightforward and draw attention to the life course idea of timing.

The overall conclusion of empirical research on the work-crime association seems to suggest that if work has any effect on crime, it does so only for some offenses and some offenders [Bushway and Reuter, 2002]. Examining the work-crime relationship in the Cambridge data, Farrington and his colleagues [1986] found that being unemployed was related to increased levels of property crime, but only for those individuals who were already relatively crime prone. Horney and others [1995], on the other hand, studying criminal development in a sample of convicted felons, found that full-time employment reduced violent offending, but at the same time led to an increase in property offending. Of more direct relevance to the life course perspective, there is also some empirical evidence that suggests that employment is negatively associated with crime in adult samples, but not in adolescent samples. Using data from a large-scale experimental employment program that involved over 3,000 participants across nine American cities, Uggen [2000] found employment—in this case, minimum-wage jobs mainly in construction and service industries—to reduce crime, but only in those aged 27 or older. Among those under 27, random allocations to employment did not significantly affect criminal behavior. Numerous nonexperimental studies even suggests that intensive work—working over 20 hours per week—may increase, rather

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than decrease, crime and other problem behaviors in adolescents [e.g., Greenberger and Steinberg, 1986; McMorris and Uggen, 2000; Mihalic and Elliot, 1997; Mortimer et al., 1996]. Moreover, Uggen and Staff [2001] report that job characteristics that lead to desistance in adults had the inverse effect in adolescents. In effect, adolescents in high-status, autonomous, and better-paying jobs reported more delinquency than adolescents in low-status, less autonomous, and low-waged jobs.

For teenagers in modern Western societies, high-intensity employment might be considered an "off-time" transition, which could help explain its detrimental impact on subsequent adolescent development. Yet, because crime-prone adolescents may also select themselves into a work environment, rather than school, results from nonexperimental studies need to be interpreted with care. Various studies have found that selection bias explains much, if not all, of the association between work and crime [e.g., Bachman and Schulenberg, 1993; Ploeger, 1997; Paternoster et al. 2003; Steinberg, Fegley, and Dornbusch, 1993]. In a recent paper on the link between adolescent employment and delinquency, Apel and others [2007] used a propensity score–matching approach to control for selection effects. A naive comparison between youths working intensively at age 16 and those not working showed working youths significantly more likely to use drugs or report criminal behavior. However, after controlling for prior levels of substance abuse and criminal behavior, no effect of intensive work remained, suggesting that the association between intensive work and crime is predominantly attributable to preexisting differences in youth choosing work and those choosing not to work.

3.8.2.3 Marriage

Marriage has long since been coined as a social institution capable of providing a turning point in many different life domains, including crime. The notion that marriage provides a catalyst for criminal desistance is a prominent feature of the work done by Sampson and Laub. Their age-graded theory views the social ties in marriage as an important source of social control. Marriage is thought to promote desistance because offenders know themselves to be in danger of losing the social capital generated through the marital union were they to persist in their criminal ways. Others have emphasized the changes in routine activities and patterns of association that usually accompany married life [Osgood and Lee, 1993; Warr, 1998]. In their most recent contribution to the literature on the topic, Laub and Sampson [2003] proffer various mechanisms through which marriage could promote desistance, in addition to direct social control exerted by spouses, like changes in the time spent with same-sex peers, new opportunities for socialization, changes in exposure to delinquent friends, and the residential change that might accompany the start of a family.

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The majority of the empirical literature finds that being in a married state is associated with lower levels of crime. Evidence for what is sometimes called *good marriage effect* comes from studies employing high-risk samples, population studies, studies relying on official data, and self-report studies and is found for both men and women, for minorities, and in various countries, including the United States and Canada, the United Kingdom, the Netherlands, and Norway. In their pioneering work on the Glueck sample, Sampson and Laub [1990] found that being in a state of marriage was negatively associated with crime, even when prior criminal involvement was taken into account. In a later analysis, Laub and Sampson [2003] applied a within-individual change model to better control for heterogeneity and selection. Their findings showed marriage to reduce crime by 33 percent, even when between-individual differences in marriage propensity, juvenile delinquency, and childhood risk factors were taken into account. Most recently, Sampson, Laub, and Wimer [2006] applied propensity score weighting and still found being married inhibited crime. Testing the hypothesis derived from typological theories that persistent offenders are unaffected by changes in life circumstances, Blokland and Nieuwbeerta [2005] analyzed the criminal careers of a cohort of Dutch offenders. They found that being married was associated with a 27 percent drop in conviction rates for low-rate offenders and a 55 percent drop in moderate-rate offenders. Marriage, however, did not significantly decrease the conviction rate of high-rate offenders. Still, high-rate offenders were not totally immune to changes in life circumstances: transitioning to a divorced state significantly elevated their already high conviction rates.* The combined results of these studies strongly suggest the relationship between marriage and crime to indeed be inversely causal in nature, thereby refuting prior claims that the marriage-crime association is spurious and solely results from social selection [Hirschi and Gottfredson, 1995].

As with all other life course transitions, it is important to consider the historical time in which the marriages examined in these studies were taking place. Much of the evidence on the crime-inhibiting effects of marriage is derived from respondents marrying in the 1950s and 1960s, an era in which men were, above all, conceived of as breadwinners and women as housewives. Economic prosperity provided ample opportunity in all segments of society to showcase one's ability to be a good provider, and divorce was largely considered unseemly. Because the life course of every particular cohort reflects the particular spacio-temporal context in which the lives of its members unfolded, the generalizability of findings across historical times is hampered. In fact, when discussing the so-called good marriage effect

* Studying marriage effects up to age 32, Laub, Nagin, and Sampson [1998] did find being married to inhibit crime, even in offenders following high-rate chronic trajectories.

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in the Glueck sample, Laub and Sampson noted that the "prospects for current cohorts may not be as promising." Elaborating on Blokland and Nieuwbeerta [2005], Bersani, Laub, and Nieuwbeerta [2008] specifically addressed the question of whether the marriage-crime relationship differs across sociohistorical contexts. Comparison of the marriage effects across three different cohorts of Dutch offenders—respectively marrying in the 1960s, 1970s, and 1980s—revealed that being in a married state reduced offending regardless of historical context. Actually, the marriage effect was strongest in the youngest cohort. One possible explanation is that because in the Netherlands cohabitation has become a normative phase in the life course prior to marriage, those individuals that eventually do marry experience greater marital stability and quality.

3.8.2.4 Linked Lives

The principle of linked lives is central to the life course perspective because social support and regulation occur to a major extent through social relationships, and macro-contextual influences are expressed through such relationship networks. Whereas the amount of support may depend on the strength of the tie, the kind of support is influenced by the characteristics of the persons to whom one is linked. Yet, in considering the effect of marriage on crime life course, criminologists have focused either on the regulatory features of the institution itself or on the quality of the marital bond. Far less attention has been paid to the kinds of lives that tend to become linked in marriage. The latter, however, is especially salient in criminology, since people are known to form relationships with persons who are in many aspects similar to themselves—a tendency known as assortative mating. In the case of delinquency and crime, research shows that people behaving delinquently tend to associate with partners also involved in crime.

A number of criminological studies speak either directly or indirectly on the association of criminal behavior between partners. The majority of these studies find partners to resemble each other in their criminal behavior [e.g., Baker et al., 1989; Farrington, Barnes, and Lambert, 1996; Farrington et al. 2001; Galboud du Fort et al., 2002; Moffitt et al., 2001; Taylor et al., 2000]. Studies on drug and alcohol use corroborate these findings [Yamaguchi and Kandel, 1993; Olmsted, Crowell, and Waters, 2003]. This association holds across different ages and across different measures of crime. For instance, in the Dunedin Study, respondents in steady partnerships at age 21—relationships with a duration of months or more at the time of the interview—resembled their partners in self-reported delinquency ($r = 0.55$) [Krueger et al., 1998]. Similar results ($r = 0.43$) were found in the Oregon Youth Study [Kim and Capaldi, 2004]. Analyzing conviction data on the biological parents of the boys in the Cambridge Study, Rowe and Farrington [1997] found an association of 0.55. Following respondents far into adulthood, Van Schellen,

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Nieuwbeerta, and Poortman [2008], using data from the Criminal Careers and Life Course Study, found that convicted men were more likely to have married a convicted partner than were unconvicted men. Partners were also found to resemble each other in the level of their criminal behavior.

Resemblance does not equal influence, however. Combining research on the "good marriage" effect and that on assortative mating, Simons and others [2002] set out to study whether involvement with an antisocial romantic partner actually lead to increased criminal behavior. Both males and females evidenced assortative mating, as prior delinquency and having delinquent friends predicted having an antisocial partner in young adulthood. Furthermore, for females but not for males, having an antisocial partner was strongly associated with adult crime, indicating that for females, aside from social selection, deviant romantic partners had a negative impact on criminality. Most recently, Van Schellen, Apel, and Nieuwbeerta [2009], using the Criminal Careers and Life Course Study dataset, showed that marrying a criminal spouse increases one's criminal activity—for both sporadic and persistent offenders.

Another example of the principle of linked lives in life course criminology is that of intergenerational transmission of criminal behavior. Children may resemble their parents either because important risk factors for delinquency—for example, ineffective childrearing practices, low education, or poor living conditions—are passed on or because assortative mating leads both individual and contextual risk factors to cumulate in the family environment. Children can also be expected to learn from their parents' behavior and be influenced by their moral standards. Finally, children of criminal parents may suffer indignities because of a parent's bad reputation [Farrington, 2002].

Several empirical studies have linked the criminal behavior of the parents (or father) to that of the children. Gorman-Smith and others [1998], analyzing data from the Chicago Youth Development Study, found that persistent delinquents are more likely to originate from families with deviant conducts, a finding that was replicated in the Pittsburgh Youth Study [Farrington et al., 2001]. These studies also showed the father to be the most important relative in predicting the criminal behavior of the child. Data from the Glueck study also showed the criminal behavior of fathers and that of their sons—born in the late 1920s and early 1930s—to be positively associated [Sampson and Laub, 1993]. Over the years, the Cambridge Study in Delinquent Development has expanded into a multigenerational study, reconstructing the criminal careers of the original sample of 411 London boys (Generation 2), their parents (Generation 1), and their children (Generation 3), the latter of whom have reached ages between 18 and 35. Rowe and Farrington [1997] found a correlation of 0.43 between the criminal behavior of the research subjects and that of their fathers, whereas children of delinquent boys evidenced

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behavioral problems in 39% of the cases, compared to 20% of the children from non-delinquent boys [Smith and Farrington, 2004]. Results from the Cambridge Study further suggest this correlation to be caused, in part, by the intergenerational transmission of environmental risk factors [Farrington et al. 2007]. The Dutch Criminal Career and Life Course Study was also recently expanded to include the children of the original subjects. Van de Rakt, Nieuwbeerta, and De Graaf [2008] studied the criminal trajectories of over 4,271 offenders convicted in 1977 and their 6,952 children for a period of over three decades. Confirming findings from earlier studies, the number of convictions of fathers was positively related to that of children, even when controlling for age and sex. The likelihood of conviction was especially high for children whose fathers exhibited moderate to high levels of criminal behavior and persistence in crime. Comparing criminal trajectories for fathers and children was shown that having a father on a persistent criminal trajectory increased the likelihood of the child also showing persistence in crime.

In sum, these findings underline the life course notion that an individual's criminal trajectory does not take place in isolation; rather, it proceeds in continuous dialogue with the developments occurring in the lives of the criminal's neighbors.

3.9 Redirecting Criminal Development

Ultimately, knowledge on the hows and whys of criminal development is to aid the design and implementation of policies that either successfully prevent individuals from embarking on a criminal path or significantly curb development of those already engaged in crime. Both empirical and theoretical life course criminology studies have inspired a wide range of interventions. Here our focus is on imprisonment, and for several reasons. First, questions of incapacitation have featured prominently in the field ever since the Panel of Research on Criminal Careers was asked to evaluate the feasibility of predicting the future course of criminality and assess the possible effects of selectively incapacitating those offenders who were predicted to show prolonged criminal careers. Second, from the late 1970s onward, prison rates have skyrocketed in many Western countries, and an increasing number of offenders are currently facing imprisonment [Aebi et al., 2006; Sabol, Couture, and Harrison, 2007]. Against the backdrop of mass imprisonment, life course criminologists have increasingly called attention to possible detrimental effects of imprisonment for subsequent development in crime and also in many other life domains [Hagan and Dinovitzer, 1999]. Finally, research on the effects of imprisonment once again highlights many of the topics addressed in this chapter, including problems with disentangling

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selection and causation, the interdependence of criminal and conventional trajectories, and reciprocity between the larger social structure and individual development.

Recidivism rates among ex-prisoners are as high as 60% over a three-year follow-up [Langan and Levin, 2002]. These high rates could lead one to conclude erroneously that imprisonment has no effect beyond incapacitation and that most offenders are resistant to efforts aimed at changing their criminal ways. Such high rates are deceptive, however, since imprisonment is not meted out randomly but reserved for those offenders who have the longest criminal records, have committed the most serious crimes, and are assumed to have the highest chances of recidivating. High recidivism rates among ex-prisoners therefore partly result from selection—this time not by the offender, the employer, or the spouse, but by the criminal justice system. The ideal way of dealing with selection effects would be to conduct a randomized experiment. However, ethical concerns—especially when considering longer prison terms—stand in the way of testing for the effect of imprisonment experimentally. A recent review by Nagin, Cullen, and Lero Jonson [2008] identifies only four true experiments that involved random allocation of custodial versus noncustodial sanctions. It also mentions a Dutch study making use of the natural experiment that occurred when, at the occasion of the wedding of then Princess and currently Queen Beatrix, during a specified period, persons convicted to prison sentences of no longer than 14 days were pardoned. Based on these studies, Nagin, Cullen, and Lero Jonson conclude that the experimental evidence shows imprisonment to have a criminogenic, rather than a preventive, effect, while at the same time recognizing that this conclusion is weak, given the small number of studies, their limited generalizability to current prison populations, and the many estimates not reaching statistical significance. Without many opportunities for conducting true experimental studies, criminologists interested in the effects of imprisonment have taken refuge in a number of different statistical methods, including regression methods and propensity score matching, to control for selection in their observational data. In their review, Nagin, Cullen, and Lero Jonson also discuss a large number of nonexperimental studies. Regression-based studies as well as matching studies are found to back the conclusion reached on experimental evidence that imprisonment has a criminogenic effect. However, since many studies were able to take into account only a limited number of confounding variables, these results may still be open to bias resulting from selection.

The life course perspective offers much ground to explain why imprisonment would conduce to future criminal involvement. First, a prison experience could directly affect the offender's knowledge and skills for committing certain offenses. It may also affect the offender's appraisal of the costs and

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benefits associated with crime, or change his or her goals or ambitions and general outlook on society. Imprisonment may also indirectly affect criminal development through the effect imprisonment has on other life course domains that are, in turn, associated with crime. Sampson and Laub [1997] argue that legal sanctions may contribute to the endurance of criminal involvement by cutting off conventional developmental pathways. Society's negative reaction to ex-prisoners contributes to the offender becoming marginalized from conventionally structured opportunities and conventional others, which in turn increases the likelihood of their subsequent offending [Bernburg and Krohn, 2003].

Several empirical studies support the idea that legal sanctions downgrade conventional attainment [Freeman, 1996; Nagin and Waldfogel, 1995, 1998; Sampson and Laub, 1993; Waldfogel, 1993; Western, 2002; Western, Kling, and Weiman, 2001] and increase future offending [Bernburg and Krohn, 2003; Hagan and Palloni, 1990]. A telling example is a study by Pager [2003], who finds that employers advertising entry-level job openings were less than half as likely to call back job applicants who reported having been convicted of a felony and having served time in prison, compared to applicants with no prison history.

The collateral effects of imprisonment may even extend beyond the person of the ex-prisoner and be felt in a wider social radius. As imprisonment removes the offender from his or her social surroundings, it exacts a financial and psychological toll on those whose lives are most closely linked, like parents, spouses, and children. Research based on the National Longitudinal Study of Youth (NLSY), for example, showed that married prisoners, during incarceration, were more than twice as likely to experience a transition to divorce than did their nonincarcerated counterparts [Lopoo and Western, 2005]. In the Fragile Families and Child Wellbeing Study, Western [2006] similarly found that incarceration significantly increased the risk of separation for men in marital or cohabitational unions.

Applying propensity score matching to data from the Criminal Career and Life Course Study, Apel and others [2008] also studied the effect of first-time imprisonment on marriage formation and stability among male offenders. These researchers found that while imprisonment had no effect on the probability of getting married, imprisonment did negatively affect marital stability. By the fifth year after release, ex-prisoners had a divorce probability that was over 50% higher than that of nonimprisoned, but otherwise comparable, men. The impact of imprisonment on the marital union appeared especially strong when spouses did not yet make the transition to parenthood. Furthermore, Van de Rakt [2009], using the same data set, showed that a father's imprisonment has substantial criminogenic effects on their children's criminal behavior.

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3.10 Conclusion

Life course criminology is a vibrant branch of criminology that continues to stimulate the scientific imaginations of many. Its impressive pedigree makes it impossible to review in a single chapter everything known about the development of crime over the life course. We therefore urge the interested reader to further consult the many excellent reviews on specific criminal career and life course topics mentioned in this text. This chapter was framed around what we consider the three main aims of life course criminology, namely, description, explanation, and redirection, and has examined how the four major themes of the life course paradigm (location in time and place, the timing of lives, the notion of linked lives, and human agency) cut across each of these undertakings.

On the basis of the numerous descriptive studies that contribute to our current knowledge of the development of offending, Farrington [2005] lists 10 widely accepted conclusions about criminal careers. Among these conclusions are that the prevalence of offending peaks during the late teens, that a small fraction of chronic offenders account for a disproportionately large fraction of all crimes, that an early onset predicts both prolonged criminal involvement and frequent offending, and that criminal behavior appears versatile and part of a larger syndrome of antisocial behavior. Yet, as Farrington rightly notes, these findings—and the theories brought to bear to explain them—generally apply only to post–World War II lower-class urban males in Western industrialized societies, particularly the United States. Important from a life course perspective is how far these findings extent to other historical times and places, an issue that is often left unaddressed. To properly appreciate the importance of the sociohistorical context, one needs to realize that criminal careers often develop in defiance of the societal reactions they evoke. For this reason, criminal career patterns are bound to reflect the marked differences in penal policy between countries. The high-rate persistent pathway found in the Dutch Criminal Career and Life Course Study data, for instance, is likely to have resulted from the Dutch tendency to view drug abuse as a public health matter, rather than an issue of criminal justice. This, in turn, allowed drug-addicted offenders to build up a long list of—albeit less serious—convictions without having to face long prison terms. Given the criminalization of drug use in the United States, their drug use alone would have caused these offenders to be incarcerated for prolonged periods of time, drastically altering their criminal trajectory.

Taking a life course perspective similarly makes us aware of the fact that the yardstick by which we customarily chart development, namely, age, is itself in many ways a social construct. Rather than a mere biological reality, life course criminologists view age as a structural feature of societies differentiating both individuals and roles [Riley, Foner, and Waring, 1988]. As societies

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change, so does what it means to be young or middle aged, or even what it means to be 25. Age-graded descriptions of the development of criminal behavior, therefore, to a nontrivial extent reflect the prevailing social conditions of the era in which the data were collected. The social construction of age is especially salient in criminology, for researchers often rely on data generated by social agents (e.g., child protection agency, police, and courts) called into existence to enforce the accepted social roles of the time.

Much research aimed at explaining the development of criminal behavior over the life course has focused on desistance from crime and the possible "turning point" effects of transitions in other life course domains, primarily the transition into the military, to work, and to marriage. As with describing the development of criminal behavior across the life span, in explaining this development it is important to be alive to the importance of the historical era in which the data were collected. "Being in the military" or "being married" or, even more specifically, "being married at age 19" may constitute a different set of experiences for the individual depending on the sociohistorical context. Research testing expectations regarding the changed nature of important life course transitions highlight the historical complexity of such transitions, since the historical context is likely to influence the content as well as the selection processes into important transitions [Bersani, Nieuwbeerta, and Laub, 2009].

Human lives are extensively linked and developments in the live of one individual may resonate in the lives of many others. The notion of linked lives is important in viewing individual criminal behavior as part of a more general intergenerational developmental pattern, as well as for fully recognizing the potential effects of interventions on the lives of those other than the offender. It also calls attention to the fact that a shared transition—like getting married or becoming parents—may differentially affect the development of the individuals involved. For the man, marrying a less delinquent spouse may dampen his criminal involvement; at the same time, for the woman, marrying a more delinquent husband may increase her likelihood of future criminal behavior. Rather than partner characteristics per se, it is the relative difference between partners that is important here.

From a life course perspective, most efforts at redirection of criminal development can be viewed as intentionally induced transitions in the offenders' lives that are meant to either directly (e.g., incarceration), or indirectly (e.g., job training) alter the offender's future behavior. At the same time, adopting a life course perspective makes one conscious that the effects of any particular intervention will not be merely confined to the offender's criminal trajectory but, rather, will affect his or her development in other life course domains as well. Furthermore, such often unintended effects of formal sanctions may be felt differently at different ages and in different life stages. Current research has mostly dealt with the collateral effects of

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imprisonment, but this argument extends to other types of sanctions as well. The focus on the collateral effects of imprisonment should not be mistaken for a total rejection of the use of imprisonment. It is, however, part of a more general appeal to shape interventions such that the benefits gained in one life domain are not nullified by losses experienced in another.

3.11 Future Goals

In recent decades, life course criminology has come a long way. Still, while our knowledge base continues to expand, in some areas it remains spotted. Based on the life course considerations explicated earlier, we offer four possible avenues for future research. First, given their dependence on historical time and place, comparisons between countries or historical periods should become part of future efforts in life course criminology. Besides strengthening the validity of the conclusions reached, extending their view beyond Anglo-Saxon countries will allow researchers to capitalize on the unique data position of many European countries—especially the Netherlands and the Scandinavian countries—in which detailed, individual-level life course data are available from official registers. Second, with regard to explaining criminal development, in our view the time has come to shift the focus of the debate away from the empirical question of whether life circumstances and criminal justice interventions have an effect on criminal development—which numerous studies have shown they do—to empirical and theoretical questions about the dynamics of that connection. This will allow life course criminology to move beyond the ontogenesis-sociogenesis debate and start testing hypotheses on why and how transitions and important life events and interventions are connected to criminal development.

Third, thus far life course criminology has focused mainly on the role of life course transitions in desistance from crime. As a result, far less is known about transitions that play a role in either the onset of an individual's criminal career or its maintenance, especially during the adult years. Future life course criminological research ought to fully recognize the variability of offending across the life span and also try to explain why some individuals start their criminal careers later in life, what factors contribute to the prolongation of criminal behavior, and why criminal development is often characterized by spells of intermittency.

Fourth, while the life course is seen as the totality of interconnected age-graded trajectories people engage in during their lives, much of the empirical research in life course criminology has concentrated mainly on the effects changes in life circumstances may have on crime. Considerably less attention has been paid to the effects crime may have on development

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in other, conventional domains. The studies that do so often address the collateral effects of official sanctions, not of criminal behavior as such, and focus mainly on employment. Therefore, future life course criminological research should also be aimed at studying the way crime affects both the development and the outcomes of other life course trajectories, including but not limiting itself to the effects of crime on employment, interpersonal relationships, drug use, and physical and mental health.

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Making Sense of Criminal Justice

4

DAVID NELKEN

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> Each man calls barbarism, whatever is not his practice … for we have no other criterion of reason than the example and idea of the opinion and customs of the country we live in.
>
> **Montaigne**, *1580 [quoted in Geertz, 1984:265]*

4.1 On Ethnocentrism, Relativism, and the Politics of Comparison

With all that it takes to organize and carry out ambitious endeavors in comparative criminology, it is often tempting to put the most basic questions to one side. What are we trying to achieve? What is the best way to achieve it? How do we grasp "difference," and what do we do with it when we have found it? [Nelken, 2010] There are, of course, any number of reasons for studying comparative criminology and comparative criminal justice, and these may influence the priority given to classifying, describing, explaining, or interpreting different social and cultural responses to deviance. On the one hand (or at one stage of enquiry), what is sought may have more to do with the sheer intellectual excitement of discovering what others do, or have done, about uncovering deviance and making social order. On the other hand (or at another stage), our goals may have more to do with practical purposes geared to learning from, borrowing, or imitating other approaches—or spreading our own practices elsewhere.

But perhaps the theoretical and practical goals of comparative work are not so easily kept apart. How much do the practical goals of comparison affect the approach we take and the methods we use, and how far should they? Considerable progress is currently being made, for example, in trying

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to make different national penal statistics comparable. This is usually presented as a neutral activity intended only to provide the raw materials for sensible comparisons. But could this work also be part of a strategy to bring about more similarity, or at least, could this be its result? Can there be, and should there be, universal, or at least European, standards in criminal justice? Certainly, after a slow start, the European Union has begun to seek ways to coordinate common responses to various crimes ranging from those that affect its budget, the threats from transnational organized crime and terrorism (as well as the much more ambiguous challenge of unregulated immigration), to the overcoming of racial hatred. Principles that affect the sphere of criminal justice, such as the requirement to ban capital punishment, also form part of the conditionality attached to candidate nations that wish to become members of the Union. In addition, the European Court of Human Rights at Strasbourg is active in dealing with cases involving breaches of its minimal standards in criminal procedure, including accusations of torture, and the rights to a fair hearing and to trial in a reasonable time.

Concerning ongoing projects for unifying European private law, there is at least some critical literature asking whether this is possible or desirable [Legrand, 1996, 2001]. But there is less sophisticated debate about harmonizing criminal justice (resistance tends to be based on seeking to preserve one's own approach just because it is one's own approach). To enrich such a debate we would need good scholarly work that can show how different practices may make sense in different contexts and what may be lost as well as gained by changing such practices.

If comparative criminal justice is to be useful in this way, it must enable us to learn something new and not merely reinforce what we already think about how things do, and should, go together. But how do we decide whether different practices are appropriate for those concerned—or for us? To do so, we must avoid ethnocentricism—the assumption that what we do, our way of responding to "crime" problems, is necessarily right for everyone. But at the same time, we do not want to fall into the trap of relativism—the attitude that there cannot be any absolutely right way to respond to deviance, that whatever people do is right for them.[*] Although criminologists have already discussed these matters,[†] it is difficult to find good illustrations of how they can affect our practice in comparative enquiries.[‡]

[*] This is concerned mainly with the problem of ethnocentrism, and does not deal with a range of related philosophic issues such as relativism or universalism.

[†] For relevant discussions of relativism in comparative criminology, see, e.g., Beirne [1983], Leavitt [1990], Cain [2000], and Sheptycki and Wardak [2005].

[‡] I cannot go into a discussion of the connections between relativism, explanation, and interpretation. But as my previous work [Nelken, 1994] should have made clear, and this chapter confirms, it is quite mistaken to attribute to me the idea that using the interpretative approach in social science implies a commitment to relativism [Pakes, 2004:23].

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If the politics of comparison has received so little attention, this may be because scholars imagine it to be a nonissue. Far from being ethnocentric or relativistic, criminologists freely concede that local contexts do not always have the best practices. They try to learn and spread general lessons, both about what to do and what not to do. In particular, many scholars are currently highly critical of many criminal justice practices in the United States and are generally worried about the way neoliberal political economy is reshaping the response to deviance and marginality. Whatever may be said about the alleged end of the metanarratives of modernity, criminology seems one of the few universalizing projects that can hold its own. Like the study of human rights—to which it is and will increasingly be linked—it takes ever more space in political projects and university curricula that focus on the society of risk and the (often self-defeating) search for individual security. And it has helped fuel the rise of "the victim" movement both in domestic criminal justice and as the justification for international criminal law.

Yet as with all prejudices, it can be much easier to be aware of others' ethnocentrism than one's own. Are we really sure we have the skills to "learn" from others, rather than "use" them as foils against which to advance and "prove" *what we already know and value*. In the actual practice of comparison, it is inevitable that our perception of others will be colored to some extent by our own cultural starting points, even as we try to learn from them. Criminologists also have their own cultural common sense. We tend to argue that the alleged rise in crime rates is exaggerated by the media and politicians, that we should avoid creating more deviance by overreacting, that the availability of work and decent housing are more important than whatever can be delivered by criminal justice. In the face of the changes being brought about by neoliberalism, we plead instead for policies based on inclusion, solidarity, tolerance, and respect for differences; not least, we recommend listening to professionals rather than seeking easy popularity. There may be little to quarrel with in these claims. But when our study of other places simply confirms what we have always thought, can we be sure that we have successfully grasped what can be learned from reflection on the similarities and differences of different contexts? What is the relationship between such contextual truths about crime control and the varieties of local settings?

It may be helpful here to return to a famous address given by the cultural anthropologist Clifford Geertz 20 years ago. At a time of widespread attacks on the alleged nihilistic implications of relativism, Geertz summarized the fears of the two camps as follows. Anti-relativists were concerned about what Geertz called "spiritual entropy"—if everything is significant, then all is insignificant, anything goes, and understanding everything is forgiving everything. By contrast, the relativists were worried "that our perceptions will be dulled, our intellects constricted, and our sympathies narrowed by the overlearned and overvalued acceptances of our own society" [Geertz, 1984:265].

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Geertz responded to these concerns by saying he was an "anti-anti-relativist," that is, that he was neither a relativist nor an anti-relativist but opposed those who were anti-relativists. For Geertz, the dangers of provincialism were more real than those of relativism. His intervention was therefore intended to keep a place open for discovering surprising practices in different societies while insisting that recognizing differences did not mean that people, including anthropologists, thereby felt any less commitment to the things they held dear. There was no justification for assuming that relativism means that anything goes.

While largely agreeing with Geertz, I would argue by the same token that this means that we should also be "anti-anti-universalists." In the light of varying criminal justice practices, our goal should be to contribute to a continuing debate about what it is right to do in responding to offenders. At the same time as recognizing that such practices do and must relate to local circumstances, we must also be open to the possibility that they are and can be evaluated using more cosmopolitan criteria. When "solutions" to social problems are limited to those that can be developed from the same culture that produced the problems in the first place, they are likely to share some of the same flaws—hence the interest in learning from other places. So we should not abandon the hope of finding best practices, even as we examine the range of vernacular forms of criminal justice. But we also need to remember that there is no point in looking for best practices if we are already sure what they are.

As an example that may help to give substance to these somewhat abstract remarks, take the currently renewed interest in establishing and disseminating transcultural knowledge of "what works" in responding to crime [Sherman et al., 1997]. This represents a valuable attempt to reverse the unwarranted, and partially unintended, pessimism induced by the earlier slogan that "Nothing works." But universal remedies may not be appropriate for local ills.* This approach often gives insufficient attention to what different cultures mean by "working," especially in reference to the procedures of criminal justice, as well as for whom crime prevention and criminal justice is supposed to work. In the United States, as well as in such cultures as the United Kingdom or the Netherlands, a practical and pragmatic approach to crime—an approach involving more efficiency, better management, and more attention to costs and benefits—is typically seen as the best way for resolving problems. In Italy, on the other hand, the idea of a managerial approach to

* It may be enough to mention the attention given in such exercises to the need to strengthen dysfunctional families as a way of reducing crime. But Mafia families (like those of corrupt politicians) seem to exhibit, if anything, too strong family ties. The daughter of Toto Riina (the last head boss but one of the Sicilian Mafia) was the respected class representative in her school. More generally, what I term *globalizing criminology* can be criticized for taking its local verities about what represents an effective criminal justice system to be universal ones. See Nelken [2003], commenting on Newman, ed. [1999].

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criminal justice is one that still finds little favor and is thought by many to be something that can potentially interfere with the proper functioning of legal procedures. The word *pragmatic* itself, like *compromise*, has much less of a positive coloring, signifying more than anything else a lack of principle. Thus, it can sometimes be difficult even to find the words to formulate best practice in any other than local terms.

And what of the potential problems that can be caused by pragmatism itself? As the late American philosopher Sidney Morgenbesser liked to quip, "Pragmatism works in theory but not in practice." Even if we agree that pragmatism has its place, what is its place? Can we be pragmatic about when *not* to be pragmatic? What would that mean? In any case, the conviction politics that lie behind many criminal justice initiatives in allegedly pragmatic countries have little that is pragmatic [Brownlie, 1998]. In the United Kingdom and the United States, are we really being pragmatic about reducing crime if punishment keeps going up as crime actually goes down? As Morgenbesser warns us, once pragmatism becomes a principle, it easily contradicts itself.

4.2 Explaining Punitiveness and Leniency

The issues raised so far are not the ones typically discussed by the mainstream literature on comparative criminal justice as it tries to make sense of variations in punitiveness. But perhaps they should be. This literature too tends to have more answers than questions. As an example, consider a recent pioneering, and deservedly praised, comparative book on penal systems by Michael Cavadino and James Dignan [2006a] and a paper by the same authors that formulates the book's main thesis [2006b]. The authors seek to explain the different rates of imprisonment in 12 modern industrial societies. These they divide into what they call *neoliberal, conservative corporatist, social democratic,* and *oriental corporatist*. They explain that neoliberal societies have the highest prison rates because they follow social and economic policies that lead to exclusionary "cultural attitudes towards our deviant and marginalised fellow citizens" [Cavadino and Dignan, 2006a:23; 2006b:447]. Both corporatist and social democratic societies, on the other hand, are said to "pursue more inclusive economic and social policies that give citizens more protection from unfettered market forces" and to "see offenders as needing resocialisation which is the responsibility of the community as a whole" [Cavadino and Dignan, 2006a:24; 2006b:448].

This summary does not claim to do justice to the originality, richness, and subtlety of Cavadino and Dignan's contribution to comparative criminal justice. My concern here is mainly with the question of how far they manage to make us rethink our approaches to punitiveness and leniency, as opposed to reinforcing us in what we already know and value. For lack of space, little

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can be said here about other aspects of their argument. But it is worth noting that there does seem to be a crucial and telling equivocation between claiming that imprisonment is less frequent where the state uses its resources, instead, for welfare provision and the somewhat different proposition that it will be less frequent the more the state delegates the tasks of social control to corporatist or other groups.*

There is also inevitably a trade-off to be made in any enquiry between breadth and depth. The authors themselves recognize the danger of forcing 12 different countries into the procrustean bed of their overall argument about the nefarious effects of neoliberalism. Their book therefore adds chapters about each of the countries, coauthored with people from the places concerned.† But it is questionable whether their overall synthesis is as much of a success as they hope. Cavadino and Dignan argue that the further factors they have uncovered about each country can be "assimilated successfully into the broad church of our general radical pluralist explanatory framework" [2006a:36]. But they also acknowledge what they call the "relative autonomy" of the penal from any particular combination of factors and concede that "however many facts we incorporate into our theory, it will still not give us the whole story. Individual nations can be as quirky and esoteric as individual human beings" [ibid.]. Yet as we will see, more needs to be said about the relationship between the factors they highlight and the "quirky and esoteric details" that they assume are unassimilable. From what perspective are such details quirky and esoteric? My argument here is that these details are of the essence and that they can, nonetheless, be assimilated into more general perspectives.

As a running illustration in commenting on Cavadino and Dignan's approach, the way they locate Italian criminal justice in their wider framework weaves through the discussion here. As my abridgement of the classificatory table in their book shows (see Table 4.1), Italy is treated as an example, albeit not archetypical, of what they call *conservative corporate societies*.

Table 4.2 gives the prison rates and political economy of some of the countries Cavadino and Dignan discuss.

How far does Cavadino and Dignan's thesis challenge us to rethink what we already know? The authors are certainly doing everything possible not to be ethnocentric. Despite being English criminologists, they are highly critical of what they consider the punitiveness of Anglo-American approaches.

* This ambiguity is particularly troublesome when, as with Italy, we are dealing with a "corporatist" society, where much of the official legitimation of state criminal justice is formulated in terms of not leaving offenders to the mercies of civil society—and especially not to those corporations competing with the state [Ferrajoli, 1989].

† While their attempt to involve local experts has much to recommend it, it also has its drawbacks. Relying on one citizen to fill in historical and cultural details is risky, but in fact their chapter on Italy mixes accounts offered by different authors with different political positions and approaches and who are writing about different periods.

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Table 4.1 Political Economy and Punishment

Socioeconomic and penal indices	Neoliberalism	Conservative corporatism	• Social democratic corporatism
Economic and social policy organization	Free market, minimalist, or residual welfare state	Status-related, moderately generous welfare state	• Universalistic, generous welfare state
Social inclusivity/ exclusivity	Pronounced tendency toward social exclusion, ghetto formation, etc.	Some exclusion in the form of limited participation in civil society for some	• Very limited tendency toward "social exclusion"
Political orientation	Right-wing	Centrist	• Left-wing
Dominant penal ideology	"Law and order"	Rehabilitation	• Rights-based
Mode of punishment	Exclusionary	Mixed	• Inclusionary
Imprisonment rate	High	Medium	• Low
Archetypal examples	USA	Germany	• Sweden
Other examples	England, Wales, Australia, New Zealand, South Africa	France, Italy, Netherlands	• Finland

Source: Modified from Cavadino, M., and J. Dignan, *Comparative penal systems.* London: Sage, Table 1.1, 2006. With permission.

Note: The original table includes differences in income and status differentials, and citizen–state relations. Their table of comparative prison rates goes on to show that Italy, like the other conservative corporatist countries, has a medium level of imprisonment, intermediate between neoliberal and social democratic countries (with Japan as the outlier in leniency).

But their approach, I would argue, does carry a good dose of ethnocentricism in its starting assumptions. In what is yet another illustration of the "evil causes evil fallacy" [Cohen, 1970],* punitiveness, obviously "a bad thing," is attributed to such other bad things as neoliberalism and exclusionary politics and to leniency, which is, by contrast, deemed "a good thing,"† is mainly linked to what they take to be other good things, such as welfare and inclusion.‡ It is their local and academic culture that tells them that these are good things, and that these good things make leniency possible.

* We should also heed the warning remarks of Hirschi in his criticism of Cohen's point [Hirschi, 1973]. Evil does often cause evil. However, avoiding the fallacy of culturally shaped expectations may be even more important in studying criminal justice comparatively than it is in explaining deviant behavior.

† The authors say in the introduction to their book [xiv] that "when we use words like 'harsh' and 'lenient' in relation to punishment, we mean them relatively and 'neutrally.'" But they then quickly go on to say, "more 'leniency' would not go amiss in any of the countries we study in this book" [ibid.].

‡ For a contrasting approach, see Whitman [2003], as commented on by Nelken [2006b].

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Table 4.2 Political Economy and Imprisonment Rates

	Imprisonment Rate (Per 100,000 Population)
Neoliberal Countries	
USA	701
South Africa	402
England and Wales	141
Conservative Corporatist Countries	
Italy	100
Germany	98
Netherlands	100
France	93
Social Democracies	
Sweden	73
Finland	70
Oriental Corporatist Countries	
Japan	53

Source: Modified from Cavadino, M., and J. Dignan, *Comparative penal systems*. London: Sage, Table 1.2, 2006. With permission.
Note: This simplification omits some of the countries surveyed.

This comes about because Cavadino and Dignan tend to treat "leniency" as the absence of punitiveness, instead of searching out the meaning it may have for the participants concerned. But if we move our starting point to Italy, the picture changes somewhat. Harshness and mildness may not necessarily belong to the same continuum. To make sense of leniency here, we need to ask some hard questions, among them: Is leniency always good? How should we (and, as important, how do they) draw the line between tolerance, leniency, and indulgence [Nelken, 2006a]? What are the cultural and linguisic specificities of discourse around these topics in Italy? Political, social, and economic life in four Italian regions are currently heavy conditioned by organized crime groups, and as many as 8 out of 10 shopkeepers are said to pay *il pizzo,* the tribute required by local bosses. Would increased use of prison in these regions signify less—or more—social inclusiveness? Melossi [1994] talked of "ruling through leniency" to explain the tolerance of and collusion with widespread criminal behavior of postwar Italian governments.* Again this speaks to a different type of inclusiveness than that which Cavadino and Dignan have in mind. Moreover, many left-leaning, as much as right-leaning, judges complain that complicated penal procedures mean that they often cannot send to prison even those they would like to (though

* It is interesting to contrast this with what may in some ways be seen as the opposite approach of "governing through crime" [Simon, 2007].

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the type of offenders they may want to send there are somewhat different than elsewhere).

On the other hand, in relation to politics, penal law on some occasions plays a much more central role in Italy than in many other Western countries. In the early 1990s, as a result of judges' "anti-corruption activities" known as *Tangentopoli,* or bribe city, all the long-standing governing parties were forced to dissolve themselves [see e.g., Nelken, 1996], and public shaming of politicians and businesspeople accused of serious crimes is still a regular occurrence, even if it now has less political shock value than in the 1990s. Targeting corrupt politicians may not be what Cavadino and Dignan had in mind when seeking to measure punitiveness. It could also be noted that this does not make much difference to the prison figures, as few of the accused remain behind bars for long. But this again shows how unwise it may be for some purposes to measure punitiveness by imprisonments rates. It certainly feels like punitiveness, justified or otherwise, for those exposed to public stigma—whose careers can be ruined (and who sometimes commit suicide).

4.3 Interpreting Criminal Justice in Italy

Enough has been said to show the need for a closer look at the actual workings of Italian criminal justice. Proposed here is that instead of deducing leniency levels from prison rates, we need to focus more on *when* and *how* lenient outcomes emerge. The key to understanding leniency in Italy (as well as to how it could change) will be found mainly in the nature of Italian criminal procedure. If there are fewer offenders in prison than, say, in England and Wales, it is largely because fewer of those charged in Italy make it all the way from charge to conviction to actual incarceration. Those individuals who do end up with convictions benefit from provisions that waive actual incarceration for those with short prison sentences (less than three years). Those serving their prison terms may benefit from general political measures of clemency that offer periodic pardons or curtailments of sentence. A crucial exception to this leniency, however, is represented by offenders who are illegal immigrants. They are rarely eligible for these benefits and make up an ever-growing proportion of the Italian prison population (the second-highest proportion in Europe). Because little in the way of welfare alternatives in the community are offered to most of those accused or convicted offenders who in this way do not add to the prison population, it makes little sense to interpret these facts as evidence of a relatively higher level of welfare and inclusiveness characteristic of a conservative corporatist society. Nor is there much sign of a willingness to "include" those offenders who fall through the carceral net. On the contrary, welfare provisions, both in the criminal justice sphere and outside it, in the neoliberal United Kingdom, are far more

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extensive and better organized. A system that starts off by trying to process offenders through the courts but fails to complete the job is not exactly showing a greater willingness to include deviants.

Hence, Cavadino and Dignan's overall argument in terms of neoliberalism versus welfare does not help us learn much from Italy; and if we limit ourselves to the factors they highlight, it might even seem that there just is nothing to learn. But this would be too hasty. To understand more about Italy's level of imprisonment (and much else), we must turn exactly to the 'quirky or esoteric features" of Italian criminal procedure. Consider three illustrations of relatively distinctive and controversial criminal justice practices, drawing on research I have been carrying out in Italy over the last 20 years as an "insider-outsider" [Nelken, 2004a]. I will say something about how each of these is connected, though not always in obvious ways, with the number of people who end up in prison. But I will also show why this is not the only or necessarily the best way to grasp their significance for comparative criminal justice.

My first example has to do with one of the most remarkable features of Italy's juvenile justice system. It could be described, though not entirely fairly, as "getting away with murder." Whatever may be said of the criminal justice system as a whole, Italian juvenile justice procedures, as reformed by the new code in 1989, are, in fact, generally lenient. They seek, even more explicitly than in the previous regime,* to limit young offenders' "exposure to court hearings" and to reduce the use of prison to a minimum. Most remarkably, as a consequence of the 1989 code, most young offenders accused of homicide not only do not go to prison but also even end up without a formal criminal conviction! This is because the new procedural code, drafted to coincide with the more important and famous reform of adult criminal procedure, could not introduce new substantive penalties. So the only available postconviction penalty for young offenders remains prison.† To avoid this outcome, most young people accused of murder (except for the rare cases of professional killings for financial gain) end up being sentenced only to a form of *pretrial* probation (by agreement with the offender), called *messa alla prova*.

Messa alla prova in general lasts on average from eight months to a year and can involve various requirements to do with schooling, employment, psychological help, and voluntary work. Formally speaking, *messa alla prova* is a way of postponing trial; only if such pretrial probation is deemed a failure

* One of the few English-language studies of the previous system (which is still cited in English-language comparative criminal justice texts as if it described the current one) was written by the outstanding criminologist Edwin Lemert [1986]. But at crucial points he offers a perplexingly ethnocentric account, as when he claims that Italian juvenile justice is "spurious" because it does not correspond to the then-reigning individualized welfare model of juvenile justice in the United States.

† This, despite the fact that there are also various orders confining young people to areas of home or work, or putting some places off limits.

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by the judge is a trial held. But for reasons that cannot be gone into here [see Nelken, 2005, 2006a], judges have little incentive to find failure. Since there is no trial, there can be no conviction! There are exceptions, of course. A case in 2002, where a middle-class teenager and her boyfriend (Erica and Omar) brutally murdered the girl's mother and younger brother, was given widespread publicity and the offenders were sentenced to prison for periods of 16 and 14 years, longish sentences even by international standards. The problem here was the high profile and motivelessness of the crime, the attempt to shift the blame, and the lack of confession. The lawyer for these young offenders did ask for *messa alla prova*. But once this was not granted, it was necessary to impose the normal adult penalty for murder, reduced by a third because of the youth of those involved, but not mitigated by any other favorable factor.

What are the implications of this example of leniency for our argument? The use of *messa alla prova* in these, and in many other cases of serious crimes, does affect prison and even criminal statistics generally insofar as they do not count as convictions. But this does not have a large impact on the overall prison population because there are fewer than 2,000 cases a year. The general background of relatively benevolent public attitudes to young offenders—who are not even referred to as delinquents—does help explain why such official leniency is possible. But the lesson for us is not the one Cavadino and Dignan would have us draw. There is relatively little welfare provision provided for or to young people in Italy (it tends to go in pensions payments). And it is not so obvious that keeping young Italians accused of murder out of prison while incarcerating immigrants and gypsies accused of theft is entirely justifiable. Nonetheless, just because of its questionableness, this practice raises important issues about criminalization and decriminalization, and diversion and tolerance, which are well worth reflecting on. If even murder cases can be dealt with without imposing the stigma of conviction, is such stigma really necessary in less serious cases?

My second example has to do with the role of prosecutors in Italy. In particular consider what has been described by some as the "myth" of obligatory prosecution. According to the "law in books," Italy has one of the most restrictive and constitutionally entrenched versions of the legality principle, one that places the highest possible constraints on prosecution discretion. All crimes for which there is evidence must be prosecuted. In terms of punitive and lenient outcomes, this therefore represents the opposite of the previous example. We should expect the rigidity of this principle in Italy to lead to more people being prosecuted and incarcerated there than in those countries that operate some version of the opportunity principle. But the study of the "law in action" reveals a different picture from that which could be deduced from the rules alone.

Certainly, some trivial or other sort of cases that would be considered appropriate for removal from the penal process in systems that allow for

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discretion are, in fact, prosecuted under the Italian system. But the large number of cases arriving on prosecutors' desks means that some choice is essential and priority has to be assigned to some cases rather than others. The choice of priorities is, to a large extent, shaped by legal rules that set different time limits by which different types of cases have to reach final sentence if they are not to become time bound, or as Italians say, "fall into prescription." Allowing cases to become "prescribed" can lead to disapproval of the chief prosecutor in the tribunal, inspections from the ministry of justice, and possible disciplinary action by the self-governing council of judges. This can have the paradoxical effect of leading prosecutors to devote more attention to the *less* serious crimes because these are at greater risk of becoming time bound, whereas they have more time to dispose of the more serious cases. Moreover, local prosecution offices do follow a variety of different practices. Their priorities often depend on what the head of the office recommends, but to a large extent they also reflect choices made by individual prosecutors, whose independence is constitutionally guaranteed in the same way as that of judges [Nelken, 2002; Nelken and Zanier, 2006].

The choices of which cases to prosecute are rarely arbitrary. And it is usually the common practice, a nondecision, to give priority to more important cases, rather than a deliberate decision not to prosecute, that fulfills the function of discretion. But if the system does not work all that differently from the way it does in countries with less stringent constraints on discretion, we still need to explain the practical implications of making such strong claims about the possibility of limiting discretion. Why maintain such a "myth"?[*] The answer lies in the fact that insisting on the principle of obligatory prosecution serves as an essential part of defending the independence of judges and prosecutors from political interference. This battle is also closely connected to the effort to stop politicians from separating the structure of the prosecution service from that of the judiciary, a change that would have some plausibility now that Italy has moved from the inquisitorial to adversarial system, but that is again seen by many as carrying the risk of undermining prosecutorial independence.

The current constitutionally guaranteed independence of the prosecutor was introduced after World War II in reaction to the prosecutors' subservience to the fascist government and also because Christian Democratic and Communist politicians did not know which of them would win the coming

[*] The question of controlling official discretion has been at the heart of comparative criminal procedure at least since the pioneering research by Goldstein and Marcus [1977]. They rightly stressed the need to compare the "law in action" in each jurisdiction and not to be taken in by "mythical" prescriptive rules. But they failed to note, on the other hand, that few things are more culturally important than myths. The rule of obligatory prosecution in Italy may often be, in everyday practice, what they would describe as a myth, but it also has a series of real consequences.

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elections. And there is little doubt that such independence was essential to the pursuance of the *Tangentopoli* investigations. To some extent, the principle of obligatory prosecution also helps insulate prosecutors from the pressure of emotional public opinion—what in Italy is called *allarme sociale*. Even if police forces, responsible to the Ministries of the Interior and Defense, are increasingly being directed to concentrate on street crime, especially that committed by illegal immigrants, many prosecutors still try to maintain their own priorities behind the shield of obligatory prosecution and do all they can to avoid the courts' turning into a conveyor belt to prison for illegal immigrants [Montana and Nelken, forthcoming].

Once again, therefore, the significance of this aspect of criminal procedure is not exhausted by asking only how far it leads to more or fewer people being incarcerated. It also raises important and difficult questions about the architecture of the criminal justice system, the meaning and control of discretion, and the value of equality before the law of the powerful and common people, of rich and poor. The principle of inclusion concerns not the right to welfare but equal exposure to the risk of punishment. Yet insistence on independence also has its costs. How far is it necessary to exclude governmental policy input into prosecutorial decision making to ensure that even government ministers can be prosecuted?* These questions are debated regularly in Italian newspapers. But are they dilemmas that only Italy faces?

My third and final example has to do with the central role of delay in criminal justice in Italy. It could be entitled "better late *and* never" or even "waiting for Strasbourg," given that the implications of such delay are not limited to what happens within the jurisdiction. Over the past 40 years or so, Italy has built up a chronic backlog of criminal and civil cases. By 2000, as many as 5,400,000 penal cases and 3,500,000 civil cases were awaiting trial. Even first-level criminal trials can take around four years, and the system has another two possible stages before conviction is considered final. Such delay is hardly ever the result of time actually spent on dealing with the cases but is instead a consequence of judges' overbooked diaries, with "dead" periods of months or even years passing between court sessions.

The introduction of the new code of criminal procedure in 1989 means that the criminal justice system now combines guarantees that belong to both the accusatorial and inquisitorial approaches. The accused benefits from the forensic heat of the adversarial contest, along with double-checking of decision making at each procedural stage by different judges and the

* As I write this (October 2007), Luigi De Magistris, a prosecutor from the relatively isolated town of Catanzaro in Calabria, is pursuing Clement Mastella, the minister of justice himself, accusing him mainly of being part of a ring to defraud the European Union, in which the leading figure is within his court's jurisdiction. The case has been taken away from him by a chief prosecutor—a highly unusual and controversial step—and De Magistris is contesting this.

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consequently high possibility of decisions being reversed.* The result is that even comparatively trivial criminal cases have in some cases to be viewed by as many 30 people with legal training. And as in the previously used inquisitorial system, all cases can still be automatically retried *on the facts* at the appeals court before going on to the highest Cassazione court on appeals on points of law.

Delay reduces the chance of conviction and imprisonment because of its implications for witnesses' memories, willingness to collaborate, and vulnerability to being targeted. Offenders die or abscond, relevant laws are changed (with retrospective benefit), pardons are given, and so on. Once accumulated, delay itself produces more delay and uncertainty. Moreover, delay is the source of yet further paradoxical consequences. Not the least of these, because *final* trial verdicts are so slow in coming, offenders in the public eye are increasingly exposed to "trial by media" as the daily newspapers, in particular, treat as a token of presumed guilt even information about the *earliest* stage of an investigation being imitated.

The situation is complicated by the role of the Strasbourg Court of Human Rights. The right to a trial within a "reasonable" period is one of the fundamental rights of the Convention of Human Rights (Article 6), which this court seeks to protect. Breaches of this article take up a large part of the court's time, and Italy is the chief offender.† The Italian state was ordered to pay moral damages to almost all the successful applicants.‡ The Strasbourg Court itself got into difficulty in handling all these cases within a reasonable period and set up committees to overhaul its machinery in an attempt to catch up with its backlog. The cases that reach Strasbourg are not necessarily representative of Italian court cases, but it is by no means only those cases that in Italy would be considered extreme that are taken there. With the exception of the few cases where delay could be justified by particular reasons of legal complexity, a good proportion of the Italian caseload, perhaps as much as 20%, could in theory be automatically be transferred to Strasbourg after a certain period of normal waiting time!

The Strasbourg Court has responded to the annual assault of cases by treating the Italian state as a persistent offender, placing it under

* E.g., there are binding rules about notifying all the parties and their lawyers at each of the many stages of trial. A considerable number of convictions for organized crime (as well as less serious criminal convictions) have been overturned at the later stages of proceedings for breaching such rules—breaches that are in some cases manufactured by accused who frequently change addresses or lawyers.

† In 1999 there were over 40 signatories to this convention, but 36% of all sentences handed down were findings of guilt against Italy for cases involving unreasonable delay in its trial processes [Nelken, 2004b].

‡ In 1999 as many as 6,885 appeals from Italy, almost all concerning delays, were waiting before the court. This represented over 20% of the total from all countries for breaches of all the various provisions of the Convention.

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surveillance and threatening to exclude it from the Council of Europe.* Internal remedies are not having major effect, and it should be said that in the absence of any prison-building program, if Strasbourg's strictures were taken to heart and trials were speeded up, this would quickly increase prison numbers and probably lead to prison riots because of the even greater overcrowding it would cause. Clement Mastella, a past minister of justice, announced that both civil and penal cases of medium difficulty should be completed in the space of five years (but I am not aware of any worked-out managerial action plan or, still less, any offer of more resources as a means of realizing this aim).

The level of court delays again confirms the argument being made so far. The most plausible explanation of why the prison population in Italy is smaller than that which characterizes the so-called neoliberal countries is the attrition rate of cases as they go through the long and complex criminal procedures. But why is such a situation allowed to persist? One reason is that politicians as a class may fear that a more efficient and speedy criminal justice system could be turned against them, with even more success than during the *Tangentopoli* investigations. For the public figures and ordinary individuals caught up in proceedings, the situation can be different. There are certainly tragic stories of innocent people suffering while waiting for their case to be heard—what Feeley describes as "the Process is the Punishment" [Feeley, 1979]. But in many cases involving Italians, at least, court delays are often less of a problem in criminal cases for offenders than they are for the parties to civil disputes; in fact, it is more often the victims or their relatives than the offenders who suffer from delay on the criminal side. Because of the possibility of prescription if cases overrun their set time limits, those who can afford defense lawyers (and who do not find themselves in prison in the meantime), employ as one of their main strategies the *deliberately delaying of matters* so as to benefit from the possibility of such overrun. Often, therefore, in Italy "the Process is the *non*-Punishment." For this reason, relatively few of the cases that take an unconscionable time on the criminal side actually end up before the Strasbourg Court. Indeed, in my analysis of a sample of 50 cases, I found a proportion of 9:1 in favor of civil cases.

The wider issues raised by court delays have to do with what "due process," what the Italians call *garanzie*, actually requires. How many stages of appeal should there be? How much need is there for separate scrutiny by

* It is important to ask how far the Strasbourg court is imposing "universal" principles of good practice of criminal procedure and how far it is involved in a process of "normalizing" trial procedures to a European average. Does Italy deserve its bad image? The only other signatory treated this way is Turkey, for its failure to comply over Cyprus and its continuing maltreatment of the Kurds. Italian court times do create suffering. Justice delayed is, too often, justice denied. But it is questionable whether excessive court delay is the same sort of breach of human rights as torture.

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different judges at each stage (and how appropriate to restrict all such decisions to legally trained people)? When is it right to say that a case has gone on too long? Why is it not enough to trust to the system's own internal legal definition of prescribing cases that overrun? Once again, we need to ask whether Italy should be seen as a special case because of the high level of mutual mistrust between political opponents, as well as, perhaps even more, between judges and politicians. We should not forget, on the other hand, that trials can also be over *too* soon. Even in Italy, the trials of immigrants caught *in flagrante* are dealt with speedily, with no chance of appeal [Cottino, 1998]. Can we be sure that the Strasbourg average provides the best means of deciding how long cases should take? It is also worth asking why the Strasbourg Court gives so little attention to such cursory trials as a breach of human rights, as compared to over lengthy procedures.

Could slowness ever be of value? At a conference of criminal procedural scholars in Padua on the topic of legal delay, at which I recently participated, it was suggested that delayed trials give victims time to get over their emotional upsets. This may seem less strange a suggestion if we see criminal justice, as one leading Italian theorist does, as primarily a means to restrain vendetta in the interest of the offender [Ferrajoli, 1989; Nelken, 1993]. But this is certainly a very different perspective from the current trend of making the victim and his or her feelings play a more central role in the trial. More fundamentally, a more efficient or speedy court system in Italy would often come into conflict with a social structure and culture that places considerable reliance on slowly built-up forms of group co-optation and clientilist sponsorship. For such ways of organizing power relations and rewarding loyalty, speedy legal remedies represent more of a threat than a promise. On the other hand, looking for the positive, we should remember Italy has been called the spiritual home of the slowness movement—the call to all of us to slow down so as to get more out of life [Honorè, 2004]. Perhaps slow food and fast trials are incompatible?

To conclude, the discussion here has tried to show how comparative criminology needs to get beyond ethnothentricism and relativism. Examining Cavadino and Dignan's recent comparative text in the light of some surprisingly different practices of Italian criminal justice was meant to show the value of trying to grasp interpretatively what it is that another system of criminal justice is trying to do and see the results of its efforts, warts and all. Cavadino and Dignan might reply that the examples of Italian penal procedure used to illustrate my argument merely point to the *means* used to express underlying Italy's relative leniency, the causes of which in fact lie in the explanatory factors they draw to our attention. But I hope to have said enough to raise doubts about whether these practices (with the partial exception of the treatment of youth offenders) are helpfully described as expressions of "leniency."

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Certainly they have little to do with expressions of inclusiveness made possible by good welfare provision.*

Pointing to what Cavadino and Dignan would call "quirky and esoteric" examples of Italian criminal procedure has required my treading a fine line between underlining what is unexpected about them while also showing how they do and can make sense. Also examined has been how far this sense may depend on the local context. I am conscious that I may not have succeeded in making these practices fully intelligible. Still less have I explained how each practice fits into the criminal justice system as a whole. It should also be remembered that these illustrations have been deliberately chosen for the purpose of highlighting difference against a background of similarities. It would be a mistake to conclude that they show irreducible or essential differences between Italian and Anglo-American styles of justice. Were it appropriate, it would be easy to point to the many similarities in how criminal justice works in all advanced Western societies. And commonalities between Italian and many other continental European approaches are even greater. But it is precisely the general similarities that make the differences so instructive.

It is also important to remember, however, that even in Italy not everyone thinks these practices make sense. Such aspects of criminal justice as the ones highlighted here are fought over; they can and do change, and this often happens because they come to be contrasted with practices elsewhere. Thus there is widespread criticism and self-criticism in Italy of the frequent failure to make people act responsibly; Italy's overindulgent attitudes are stigmatized as expressing *buonismo* or *perdonismo*. With reference to the criminal justice system more specifically, commentators argue about how to distinguish genuine due process types of *garanzie* from the overblown and unworkable *garanzie* called *iper garanzie*, and they debate how to avoid the deliberate exploitation of *garanzie* discourse so as to block the course of justice, the so-called *garanzie pelosi*.

On the other hand, it is interesting to note that the examples analyzed here have all so far been relatively resistant to change. Consider, for example, the efforts of Roberto Castelli, the minister of justice (from the right-wing Northern League), who tried to reform the juvenile court at a time when

* If we are looking for factors that might help explain why few national politicians (other than those on the far right) sought in the past to exploit populist fear of crime for electoral advantage, we might consider the politicians' own support for garantismo in the face of their own vulnerability to prosecution, the widespread popular distrust of the state, a reluctance to see it too powerful, and, not least, the somewhat different status of victims in Catholic countries, where they are expected to forgive more than to authorize revenge [Nelken, 2006a]. But this is now beginning to change fast, especially at the level of local government, above all where immigrants are concerned. A key indicator of this is decreasing use of the term "micro-crime" for conventional crime [Nelken, 2000b].

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public opinion was still shocked by the Erica and Omar case.* His ministry proposed, inter alia, to exclude murder and other serious crimes from the ambit of *messa alla prova*. But he was not supported in parliament even by his own coalition. With regards to prosecution discretion, the prosecutorial and judicial roles are now beginning to be more separated institutionally, and the last Silvio Berlusconi government did pass legislation giving more formal responsibility over prosecution decisions to the heads of prosecution offices. But interviews reveal that this is unlikely to have much effect in practice because the heads say that they are reluctant to interfere with their subordinates and their constitutionally guaranteed independence [Nelken and Zanier, 2006]. As for court delays, these are so entrenched that it is difficult to see how they could be changed without substantial governmental intervention.

What, then, is to be learned from the Italian case? It is certainly easier to learn from similar milieus, but the risk is that of learning only to do more of the same. It is more difficult to learn from places that are different. Such learning involves not only looking for better practices to help us do what we already do even better but also finding opportunities to reflect on our own practices and values of criminal justice in the light of what others do. Thus, the best practice to learn from will not always be best practice as such, but that which provides the best stimulus for us to re-think what we do. Such learning must, of course, be mutual. It may seem obvious to us that the Italian criminal justice system could benefit from increased pragmatism and perhaps even from some much-dreaded managerialism! But, conversely, Italy may have something important to teach more pragmatic countries about the drawbacks of too much concern for efficiency in their penal systems. Recently, for example, Rod Morgan, head of the Youth Justice Board in England and Wales, and before that, an academic criminologist, resigned from his post because the government's stress on dealing with caseloads more expeditiously had led to a 26% rise in youth custody, in contradiction with its general commitment to reduce the number of young people sent to prison.† This problem, at least, is unlikely to arise in Italy's juvenile justice system.

* It is interesting to compare this with the reaction to the abduction and killing of Jamie Bulger by two other young boys in the United Kingdom in 1993. The shocked reaction to this case was sufficent to bring about legislative change reducing the minimal age of criminal responsibility to the age of 10.

† Jackson, Johnstone, and Shapland's valuable discussion [2003] of the need for time limits in youth cases in England and Wales could also benefit from considering the Italian way of correcting delay, through procedural cut-off points. There is a risk, otherwise. that increasing the through-put of cases to meet time limits could again have the unintended effect of increasing incarceration levels. For a contrast between the English and Welsh, and the Italian, approaches to "early intervention," see Field and Nelken [2007].

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Methods of Inquiry

II

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The Politics of Numbers
Crime Statistics as a Source of Knowledge and a Tool of Governance

5

HEIDI MORK LOMELL

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5.1 Introduction

> Counting is one of the ways we construct the world. [Best, 2005:212]

Is crime increasing or decreasing? Does prison work? Are men more criminal than women? Does zero tolerance policing reduce crime? These important questions all depend on production and deployment of statistical data. In fact, many of the most important questions in criminology have been, and still are, quantitative [Godfrey, Lawrence, and Williams, 2008:26]. The purpose of this chapter is to show that although these questions may seem straightforward, answering them is not just a challenge both empirically and methodologically [Maguire, 2002:322]; a straightforward answer is to a great extent impossible. In order to understand why a true measure of crime is "an absolutely unattainable chimera" [Reiner, 1996:203], at a time when crime statistics are produced and used more extensively than ever before, we need to approach crime statistics as a source of knowledge—for both criminologists and criminal justice practitioners—and as a tool of governance.

Crime statistics play an important role in the public sphere. Crime statistics are popular news, whether in the form of *trends* showing increases or decreases from year to year, *patterns* showing the distribution of different types of reported crime, or *league tables* or *rankings* comparing countries or cities, leading to such headlines as "Scotland Tops List of World's Most Violent Countries" [*The Times* Online, 2005]. Reiner [1996:185] observes that "crime statistics are probably given more prominence in public debate than any other numbers apart from the national lottery winners." As criminology students, we therefore need to learn not only how to read the crime statistics but also how to identify and analyze different discourses that surround crime statistics.

Crime statistics are not just important for academic inquiry and media discourse; they are also essential in governmental policy, specifically in

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criminal justice politics [Haggerty, 2001b]. Statistical knowledge is often the preferred basis or justification for decision making. The etymology of the term *statistics*, or the "science of the state," is testimony to the centrality of this to all "political arithmetic" [Reiner, 1996:185]. There is an important interplay between the evolution of crime data and their functioning within the state. Later in the chapter we will look into the role of crime statistics in policy formation and policy-learning contexts. First, let us trace the origins of crime statistics in the general history of statistics.

5.1.1 Governance by Numbers

As a governmental activity, statistics are centuries old. As a popular interest and amateur form of social research, they date from the early 1800s, and as a profession from the late 1800s [Starr and Corson, 1987; Hacking, 1990; Desrosières, 1998; Porter, 1995]. Statistics have played a vital role in the different manifestations of the art and practice of governance [Bayatrizi, 2008; Haggerty, 2001a]. "Statistics has helped determine the form of laws about society and the character of social facts.... It may think of itself as providing only information, but it is itself part of the technology of power in a modern state," according to Hacking [1991:181]. For example, transforming a more or less amorphous and diffuse clustering of people into an aggregate of distinct citizens, a 'population," was not just "a new way of acquiring knowledge about a human multitude, but also part of an endeavour to constitute a specific kind of human multitude, one which had not existed before.... The rise of statistics was both an epistemological and an ontological (or at least an ontic) event, since its object (or subject-matter) was both discovered and produced" [Österberg, 1988:19]. Crime as a *social* phenomenon was both discovered and produced when one started counting.

As are other statistics, crime data are inextricably bound up with the knowledge and power of governments. From the beginning, crime statistics have been used to support specific policy aims [Godfrey, Lawrence, and Williams, 2008:27]. In contrast to the popular view that emphasizes statistics as objective reflections of the empirical world, my point of departure is that crime statistics are, first and foremost, *social constructions*. Like other cultural products, crime statistics are outcomes of social processes [Sacco, 2005:57]. This perspective is not a simple rhetorical way to slight the value or utility of statistics, for it gives an opportunity to explore the social and historically specific means by which crime data are produced [Haggerty, 2001a:4]. Statistical information on crime does not fall from the sky like some pure reflection of reality [Desrosières, 1998:25]. The production and interpretation of crime data are a social activity: "Rather than passively reflecting some objective world of crime, they actively construct a subjective world of crime" [Sacco, 2005:67]. Various numerical crime data filter the

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reality of crime [Lynch and Addington, 2007]. This view of statistics is not common in popular, public, and political discourse, where numbers seem superior to "mere" words, being taken to be scientific, independent, and therefore accurate [Godfrey, Lawrence, and Williams, 2008:27].

Numbers are always produced by someone for a purpose. Crime statistics are not objective descriptions of crime, gathered from nonparticipant points of observation [Haraway, 1991]. The very act of counting is a specific form of viewing crime. "Statistics not only lend themselves to many interpretations; they contain them. And because statistics do not simply reproduce reality, statistical systems represent an independent factor in social life" [Starr, 1987:52].

If we take this point of departure, we need to ask specific questions: What counts as crime? Who counts? How do they count? Why do they count? What consequences does the counting have? The numbers in themselves also have to be interpreted: "Numbers cannot tell a story on their own, but must be actively given a voice by others" [Haggerty, 2001a:161]. Who gives voice to the numbers and with what agenda are equally important questions to ask in order to better understand the politics of crime numbers. This chapter is intended to sensitize the readers to these points so they can better understand how to handle numerical crime data in their work as criminologists and, moreover, better analyze how others interpret the crime statistics as part of a political discourse.

Handbook chapters on crime statistics are often written in a how-to or, even more polemical, how-not-to approach to reading and using the numbers, focusing on such technical aspects as the "dark figure," changes in reporting practices, or cautionary messages—certain difficulties of representing the social world through numbers. Such chapters primarily treat crime statistics as a source of knowledge about crime. As indicated, this chapter, in addition, looks at crime statistics as a tool of governance and their role in the politics of criminal justice. First, however, we begin by looking at challenges and pitfalls when using crime data as a source of knowledge, by analyzing problems surrounding the interpretation of official crime statistics, and by considering alternative sources of information about crime. We start, then, with the development, limitations, and uses of numerical crime data as a source of knowledge about crime and criminality, presenting three major ways of measuring crime: official data, self-report studies, and victimization surveys.

5.2 Crime Statistics as a Source of Knowledge

5.2.1 Creating Crime, Creating Criminology

Because *crime* is an everyday category for us, we usually take the notion of crime statistics and crime rates for granted. But statistics have a creative

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power. By categorizing, measuring, and counting, one can say that we invent or produce, rather than discover, new phenomena [Österberg, 1988]. The idea of a crime rate is itself a statistical construct. Without crime statistics, we would not have a notion of crime rates:

> There were, of course, crimes before the statisticians occupied this territory, but it may be doubted whether there were crime rates.... The invention of crime rates in the 1830s and of unemployment rates around 1900 hinted at a different sort of phenomenon, a condition of society involving collective responsibility rather than an unfortunate or reprehensible condition of individual persons. [Porter, 1995:37]

Our every thought is shaped by our culture's system for categorizing the world and when enumeration became part of social science—and governance—crime was constructed in a new fashion [Berger and Luckmann, 1984]. Starr [1987:53] refers to this effect of official statistics as "cognitive commitments"; that is to say, such official figures as the crime rates bound us collectively to think of the social phenomenon of crime—its magnitude, trends, and distribution—in the way that the statistical agencies and commissions have settled on. Reading regularity and predictability into the first crime rates, Quetelet [(1842) 1996] assumed that the causes of crime must lie outside of each individual's control and that crime was not a simple matter of individual choice. Crime as a *social* phenomenon, and as a problem, was invented with the basic enumeration of crime.

The attempt to measure crime has played a prominent role in the development of criminology as an academic discipline. In the early nineteenth century, crime was gradually perceived as a major social problem and an object of inquiry in its own right. Systematic measurement by Quetelet [(1842) 1996] led, in the 1820s, to the publication of national criminal statistics in France, where regularities in the occurrence of crime were explained with reference to such factors as age, sex, climate, and economic conditions.

5.2.2 Approaching the Numbers

Crime data have been an essential part of both the theoretical and the historical development of criminology, being variously seen as measures of crime, measures of the activity of the criminal justice system, starting points for debates on criminality, or fictional constructs [Williams, 2007:1]. The *realist* approach is concerned with validity,* as well as with reliability;† the *institutionalist*, however, views crime statistics as products of social and

* In statistics, a valid measure is one that measures what it is supposed to measure.

† The level of precision of an instrument determines reliability, which is the extent to which a measurement made repeatedly in identical circumstances will yield concordant results.

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institutional processes [Coleman and Moynihan, 1996:16]. These approaches can also be called *positivist* and *interactionist* [Godfrey, Lawrence, and Williams, 2008]. In the first approach, official crime statistics are used as an index of the "actual" or "real" volume of crime; in the second, as an index of social control operations [Black, 1970:733]. In the first use, the dark figure is prominent; in the latter, the police production or recording of the reports becomes crucial.

This latter approach is also close to a *social constructionist* perspective, where police and court records of crime are regarded as the product, not of a neutral fact-collecting process, but of one geared primarily to organizational aims and needs. In this perspective, crime statistics do not reflect the reality of crime: they are part of its creation. Crime statistics can, therefore, tell us more about the organization that produced them than about the activities they are used to describe [Maguire, 2002:333]. This perspective has led some researchers to conclude that there is no point in analyzing crime figures for the purpose of finding out anything about the extent of crime; crime rates are "an aspect of social organisation," and by studying them, one can better understand the agency producing them, not crime itself, making crime statistics "an end rather than a means of study" [Black, 1970:16]. This "institutionalist" approach has made crime statistics a topic in their own right, rather than a resource with which to study crime [Maguire, 2007]. Empirical studies of crime-recording processes in police stations, revealing the importance of police practices and attitudes in shaping the official statistics, are an example of the institutionalist approach [Bottomley and Coleman, 1995].

Using crime statistics as a source for studying crime, we must first deal with "the schism between the social processes that produce *deviant behaviour* and the organizational activity that produces the *rates of deviant behaviour*" [Haggerty, 2001a: 26]. The latter approach, studying the processes involved in categorizing, processing, and recording deviance, is fundamentally different from using crime statistics to study deviant behavior itself.

A *radical* approach treats the numbers as outcomes of wider structural processes in the political and economic structure of society [Coleman and Moynihan, 1996:21]. In contrast, the *pessimistic* position considers crime statistics fictional constructs, which are a random measure that gives a picture of neither crime nor the activities of the criminal justice system [Godfrey, Lawrence, and Williams, 2008:38]. This position does not consider the statistics merely an imperfect source of knowledge for the study of crime or the study of the organizations that produces them; rather, it sees such statistics as useless [Sindall, 1986:33]. Instead of viewing crime statistics as a reflection of a phenomenon, Sindall suggests that we view them as a phenomenon in themselves [ibid.:34]. Crime statistics are useful in explaining reactions to crime, however; they function as a measure, not of the extent of crime, but of what people *believe* is the extent of crime. Their value lies in forming the

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basis of the picture of crime that influences popular and political discourse, in creating an image of crime in society. Crime statistics do not give a picture of the actual extent of crime in society; but such statistics do show the *perceived* state of crime in society and are, on these grounds, are worth studying. We return to this position later in this chapter. In the coming pages we take a closer look at different crime data and how they have been used in criminological discourse.

5.2.3 What Counts as Crimes?

When we talk about crime, crime rates, or crime statistics, exactly what numbers are we talking about? In most countries, the annual publication of offenses reported to and recorded by the police is what counts as crimes. The crime rate is the most widely used concept when speaking about the basic enumeration of crime. However, the word *rate* implies that the number is expressed in relation to some other variable, usually population, but that is seldom the case [Pease, 1999:xv]. The crime rate is the number of crime events per head of population and is expressed as such in official crime statistics publications but more seldom by the news media and politicians, who often use absolute numbers.

In most industrial countries, governments began to coordinate the collection and publication of crime data during the late nineteenth or early twentieth centuries [Reiner, 1996:186]. To give a few examples, *Criminal Statistics in England and Wales* dates back to 1876 [Maguire, 2002:334], and the Uniform Crime Reporting (UCR) Program in the United States began in 1930 [Barnett-Ryan, 2007:55]. Over the years, crime has been counted at an earlier and earlier stage in the criminal justice process, getting continuously closer to the offense itself. In the beginning, statisticians counted persons "accused or condemned" in order to count the "number of crimes" [Quetelet, (1842) 1996:19]. The first set of figures in England and Wales listed "commitments for trial" [Emsley, 2007:129]. The first official crime statistics published in Norway, in 1835, was *Statistics on Convictions and Ticket Fines for Crimes and Misdemeanours* [Lie and Roll-Hansen, 2001:248]. Gradually, starting in 1965, crime statistics in Norway came to mean "offenses investigated by the police,"* and then, for the first time in 1990, "offenses reported to the police." This development has been supported by leading criminologists, most notably Sellin, who in 1951 claimed that statistics produced at each subsequent stage in the criminal justice process are of declining value as a measure of crime and criminals—a concept also known as "Sellin's dictum" [Coleman and Moynihan, 1996:10]. Currently there are suggestions to move

* Such offenses are those where investigation has been completed, but where a person has not necessarily been charged.

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to an even earlier stage in the process and count "incidents" or "calls for service" reported to the police, including both crimes and and so-called noncrime events—that is, incidents of disorder or public concerns [Simmons, 2000:18, 62].

Most crime statistics today use offenses reported to the police as their basis, but which categories of offenses are included varies. Some countries, like Norway and Germany, include all offenses in the penal code in their crime statistics, whereas other countries, like the United States and England and Wales, use a limited number of "index crimes." For example, the UCR Program, as detailed on the U.S. government's Web site, collects data about seven offenses in order to measure the level and scope of crime occurring throughout the United States: criminal homicide, forcible rape, robbery, aggravated assault, burglary (breaking or entering), larceny-theft (except motor vehicle theft), motor vehicle theft, and arson. Countries may also differ on whether they include summary offenses in the figures and also on whether the numbers consist of only the most serious offenses or all crimes and misdemeanors.

Official publications on criminal statistics always consist of reported crimes, but in addition we can also find statistics on criminality (persons charged, sentenced, and/or imprisoned) and on the criminal justice system itself, including police, prosecution, and prison or other penal institutions [Pease, 1999:xxii]. Many official crime statistics publications are a mix of the three types of statistics; but in the media, reported crimes often receive the most attention.

To summarize the preceding discussion: What counts as crime varies across time and jurisdictions. Categorization and counting standards differ, again both across time and jurisdictions. What counts as crime depends on the specific criteria and administrative systems used to measure crime. If those criteria differ or are changed, so will the crime rate [Haggerty, 2001b: 711]—an important point to keep in mind when comparing crime levels historically and geographically. Otherwise, the comparison will result in simplistic or incomplete analyses that create misleading perceptions of crime levels and crime trends.

5.2.4 Official Crime Statistics

> The main problems in interpreting the official statistics on crimes which have been recorded by the police arise from the fact that they are both incomplete and biased. [Reiner, 1996:188]

For an event to become part of official crime statistics, it has to overcome two hurdles. First, it must come to the attention of the police. Then, the police must record it as a crime. There are a number of reasons, legitimate and illegitimate, why criminal events fail to enter the records at either stage,

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not becoming known to the police at all or being recorded by the police as crimes. These events comprise the so-called dark figure of unreported and unrecorded crime.

5.2.4.1 The Dark Figure

Official publications of crime statistics often come with "methodological health warnings" about how they should be read [Reiner, 1996], often under headlines referring to the *dark figure*. The dark figure refers not only to the vast number of unrecorded crimes and criminals, but also to our picture or imagery of undetected offenders and offenses. It can be used in a quantitative (numerical) or a qualitative (pictorial) sense [Coleman and Moynihan, 1996:3].

However, such dark figure warnings are often ignored by politicians and journalists, who tend to present crime statistics as an accurate barometer of crime. Statistics on police-recorded crimes are regularly referred to in media and political debate as the crime rate, although the publications, often published by national statistical bureaus, explicitly warn against this. For instance, the Federal Republic of Germany's official document [2007], *Police Crime Statistics,* comes with the following warning:

> The **informational value** of the *Police Crime Statistics* is limited in particular by the fact that the police do not learn about all the criminal offences that are committed. The extent to which crime goes unreported depends on the type of offence, and this can vary over the course of time in response to a variety of factors (e.g., public willingness to report offences, the intensity of crime detection efforts). Therefore it is not possible to assume there is a fixed ratio between the number of offences committed and the offences recorded in the statistics.

Although everybody acknowledges the presence of a dark figure, responses to it differ [Coleman and Moynihan, 1996:3], depending on whether the perspective is realist, institutionalist, or radical. Some criminologists continue to use the official statistics as representative of the dark figure, assuming that the dark figure has broadly similar features to those crimes and offenders that are already known. Others try to discern its size and characteristics by conducting self-report studies or victimization studies.

However, what one can observe on a regular basis is that in news stories, crime statistics are routinely referred to as crimes, not as reported crimes. Let us look at one example, a BBC News online story from 2005 to illustrate important questions one needs to ask in respect of official crime statistics: The headline is "Violent Crime Increases by 6%," the source of which is the official crime statistics, namely, offenses recorded by the police. A number of questions should by now follow a reading of the related news article: How can we know that an increase in *recorded* violent crimes reflects an *actual*

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increase in violent crimes? What do we know about reporting and recording practices when it comes to violent crime? Are there any changes from 2004 to 2005 in the way police record crimes in England and Wales?

This particular article provides us with a rare example of methodological explanations entering the news: "Ministers said the violent crime figure was affected by changes to the way police record the crimes," that "violent crime figures now included lower level offences such as 'pushing and shoving,'" and that "an overhaul of sexual offences laws had changed the way such crimes were counted." All these statements suggest that changes in recording and counting practices caused the increase. The headline, however, does not match this cautionary line but bluntly states, "Violent Crime Increases by 6%." While technically correct, the headline should have read "Recorded Violent Crime Increases by 6%." Let us look more closely at the reporting and recording phases in the production of official crime statistics.

5.2.4.2 Reporting Crime

Criminal offenses may be carefully defined in law, but they are also *socially* defined and constructed [Maguire, 2002]. People must first perceive a particular action or event as a crime, and then they must decide to report that perceived crime to the police. If the criminal offense does not involve individual victims—environmental crime, drug offenses, or tax fraud, to name a few examples—the extent and pattern of reporting the crimes depend on the deployment of police or such other government controls as the customs service or the tax authorities. "Victimless crimes" are therefore particularly underrepresented in official crime statistics. Yet offenses involving personal victims may also not be reported. The crime may be regarded as too trivial or the victim may not see any point in reporting the crime to the police. If your old bike is stolen, for example, and you do not have insurance, you may not expect the police to do anything about the theft and so may decide not to go to the police station to file a report.

Likewise, the victim in much more serious cases, for example, various sexual offenses, may come to the same conclusion, but from an opposite angle: the victim may think of the crime as too traumatic to report or may be afraid of having to testify in court. Whether victims of crimes decide to report the crime thus varies according to their own knowledge, awareness, or feelings about crime [Maguire, 2002:322]. Victimization surveys have shed light on fluctuations in reporting practices among different groups of victims [Nielsen and Snare, 1998; Zedner, 2002]. We will return to victimization surveys shortly.

5.2.4.3 Recording Crime

Obviously, official crime data do not include offenses that though known to the public fail to come to police notice. These are the nonreported cases. In

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addition, the police have always possessed a great deal of discretion about whether and how to record possible offenses that *do* come to their notice [Maguire, 2002:335]. Although the public plays a major role in the production of crime statistics by choosing whether or not to report incidents to the police in the first place, the recorded crime rate is a complex product of initial decisions by citizens and the police to report crimes and the police officers' subsequent investigation and discretionary decisions whether to record them. There may be a number of reasons why the police do not record what is reported. The police can exercise discretion not to record cases reported to them and those they have discovered themselves.

Reports from the public may be disbelieved, considered too trivial, or rightly or wrongly judged by a police officer not to constitute a criminal offense. There can also be organizational, structural, and political reasons for not recording a crime—for instance, reducing the crime rate or improving the overall clear-up rate. Bottomley and Coleman [1981] showed in their study that cases with little potential for detection were not recorded, in order to increase the clear-up rate. This has also been described by Young [1990]. As documented in *The Guardian* [2008], there are also examples of recording cases that would previously have been dealt with more informally in order to improve clear-up rates. This practice is often described as *picking the low-hanging fruit*—for instance, issuing formal charges or final warnings to younger teenagers.

Police decisions to record a report as a crime is one link in a long chain that ultimately leads to aggregated crime data. One study found that police officers' decisions to report an offense depended on the calls they received. If the dispatcher named an offense in the call, the patrolling officer reported offenses [Pepinsky, 1976]. No offense was reported when the dispatcher named none. Also, Black [1970:746] found that the complainant's manifest preference for police action had a significant effect on official reporting of crime. The police officers' loyalties were more strongly tied to the demands they placed on other members of their organization than to meeting the needs of the crime measurement system. These findings have implications for what we discuss later in this chapter: What happens with the recording of crime data when they become a performance indicator for the police, in an "audit culture" [Strathern, 2000], where good performance is rewarded and bad punished?

5.2.4.4 Counting Rules

Decisions as to which kinds of offenses to include in the official statistics and what counting rules to apply can make a huge difference in published totals and, hence, to the impression the public has about the crime levels [Maguire, 2002:335]. Attempts to introduce national crime reporting standards—counting rules—have helped remove some differences in recording practices. Yet the temptation to artificially improve the crime or clear-up

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rate is an almost inevitable effect of the management ideology, a topic we come back to later.

Counting rules, and changes in them, can have a huge influence on the official crime rate. For instance, if someone breaks into eight cars parked on a street, is that counted as eight instances of "theft from cars" or as one criminal incident? If someone is abused by her partner for a long period of time, does that count as one or several incidents of abuse in the crime statistics? There have been several trends in this area lately. One trend involves efforts to establish more uniform counting rules nationally; another aims to change the rules, or practices, in order to record as much as possible from an incident. Changes in counting rules are often part of a larger political discourse in which actors have interests in the statistics showing as much, or as little, crime as possible.

In Norway, the counting rules from 1994 state that "if the report includes several offenses, each incident that could make an independent item in the charge should be registered" as an offense in the crime statistics [*Crime Statistics,* 2008:17]. Previously, only the principal offense was reported if two or more offenses were committed in a single action against one person, if the same type of offense was committed repeatedly by one person against another over a period of time, if an offense was committed involving more than one person at the same time, or if an indictable offense was committed to clear the way for another, more serious crime. Several offenses were reported, however, when one offense was committed in order to conceal another.

Currently in England and Wales, in contrast, the general rule is "One crime per victim," as specified in Part D of the *Home Office Counting Rules for Recorded Crime*. According to the UK Home Office Web site, the statistics are supposed to reflect the *number of victims*, rather than the *number of criminal acts* [Maguire 2002:338]. So, depending on how many victims can be identified, several offenses or just one offense will be recorded.

Counting rules differ, too, and there is no correct answer to the question how to count crime. It is important, however, when we compare crime rates historically or geographically, to check whether counting rules have been changed or differ. When we compare crime rates from country to country, looking for which has the highest, or even the lowest, crime level, different counting rules can lead to surprising differences in crime rates. "Five Times More Crime in Oslo Than in New York" was the 2008 headline in one of Norway's main tabloid newspapers [*Dagbladet* Online, 2008]. In a fierce reply, the chief of the Oslo police force claimed that the comparison was "unacceptable," and that the numbers could not be compared because of different counting rules.

5.2.4.5 Using Crime Statistics to Estimate Trends and Patterns

> Substantial unrecorded crime is inevitable, and fluctuations in it can play havoc with any attempt to estimate trends and patterns. [Reiner, 1996:203]

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Crime statistics may be a highly misleading indication of the *pattern* of offending. Official crime statistics systematically underrepresent both much crime and much police work [Black, 1970:746]. Some crimes are notoriously underreported, as are, for example, sexual offenses. But it has also been estimated that only half of detected frauds are reported to the police [Simmons, 2000:29]. Many victims will not report detected fraud to the police not only because they do not wish to attract bad publicity, but also because they absorb the cost. In later parts of this chapter, we look at surveys that have shed light on the dark figure, but for now one important conclusion can be drawn: Official crime statistics present a biased portrait both of the state of crime and of criminality. Some offenses (and their victims and perpetrators) are far more likely to end up in the official records than others [Reiner, 1996:188].

"Crime Is: Up? Down? Who Knows?" asked a 2001 headline in the *Seattle Times* [cited in Mosher, Miethe, and Phillips, 2002:2]. The kinds of crime statistics most likely to feature in newspaper headlines are those referring to apparent *trends* in crime. Media often focus on whether crime is increasing or decreasing. The dominating trend since the 1960s has been yearly increases, resulting in song lyrics like "Don't you know the crime rate's going up, up, up, up, up!"* But from around 1990 a relatively steady decline in official crime rates began in many Western countries. However, different data sources sent conflicting messages about trends in crime, resulting in often contradictory conclusions that confused both the media and the public.

There can be multiple explanations why the numbers are changing, in either direction; and to simply take the increase or decrease as a sign of how the true total of crime is heading is too simple. Increases and decreases can occur because of changes in reporting and recording practices. An increase in the official crime rate can occur, for instance, not because of a rise in offending behavior but because more crimes are being reported by victims, more proactive policing means discovering more offenses, or the police are recording a higher proportion of the crimes they become aware of [Maguire, 2007; Reiner, 1996:189].

In the last three decades there have been major changes in both the collection and the presentation of information about crime, where we have, first of all, seen a major "data explosion" [Maguire, 2002:323]. Computers, computer processing capabilities, and online mass storage are increasing in numbers and size as costs have been sharply reduced [Duncan, 1987]. Cost-effective methods for collecting, processing, and disseminating statistics are easily available. One effect of the introduction of electronic data processing is that recording crime is easier, faster, and cheaper than ever, a factor that by itself has led to an increase in official crime statistics

* From the song "Shattered" by the Rolling Stones from their 1978 album *Some Girls*. The lyrics are cited in Haggerty [2001:161].

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[Olaussen, 1996]. The traditional source of crime data associated with the modern period—the standard statistical series of notifiable offenses published in official criminal statistics—is becoming increasingly irrelevant [Maguire, 2002:368]. The trend is weekly or monthly publications on police Web sites, partly a result of the increasing demand for fresh statistics from both inside and outside the police force. In the mid-1990s, the new head of the New York Police Department (NYPD), Commissioner William Bratton, was shocked to learn that "the NYPD did not know its current crime statistics. There was a reporting time lag of *three to six months*" [Silverman, 1999:99]. This situation changed, and crime statistics were soon generated on a weekly basis. The feedback loop became faster.

5.2.4.6 Summing Up

Interpreting official statistics is difficult and must be undertaken with caution. Crime statistics have been described as the tip of the iceberg of crime and criminals; and a criminology exclusively based on the official statistics is like the *Titanic,* "complacently going about its business with its gaze fixed upon the visible tip (official data) and about to be sunk by the huge unknown bulk beneath the water-line (unrecorded crime and undetected criminals)" [Coleman and Moynihan, 1996:3]. For criminologists, it is therefore necessary to look into the practices that generate official data [Maguire, 2002], and they must look both inside the criminal justice system and outside, in society. For a criminal offense to end up as a number in official crime statistics, "the three R's have to occur: *Recognising* the act as criminal, *reporting* it, and finally, the police *recording* it" [Walklate, 2005:33].

Official crime statistics are produced by the state and its agencies, not by researchers. If we let official crime statistics be the only source for describing and analyzing crime in society, we entrust the state with the definition of our subject matter: for "even if the state's formal definition of crime was acceptable for practical purposes, it was probably wrong for science to rely on other agencies to produce its data and its research subjects" [Coleman and Moynihan, 1996:2].

When criminology grew as an academic discipline in the 1950s, it became increasingly apparent to criminologists that they needed to supplement official data with other data, from surveys, with the purpose of capturing crimes that do not enter the official statistics because they are not reported to or recorded by the police. The first surveys started in the 1950s and 1960s, a time when survey research became one of the most important sociometric tools, one used in measuring all kinds of social phenomena [Maltz, 1977:34]. In the next section we look at other ways of quantifying the extent, nature, and distribution of crime and offenders. These ways fall into two major forms of survey, self-report studies and victimization surveys [Coleman and Moynihan, 1996:12].

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5.2.5 Self-Report Studies

The previous section has shown how official statistics on crime and criminals, produced by the state and its agencies, contain biases, as do all statistics. For criminologists aspiring to learn more about crime in society, data generated from their own research, independently of the state, are often more attractive. One important task for criminologists in the 1950s and 1960s was to establish "their own system of registration" [Christie, 1971:126]. Another important point for researchers conducting the first self-report studies was the question of *representation*. Were recorded offenses representative of the supposed total number of crimes in society? Were prisoners representative of the supposed total population of all who have committed crimes? The dark figure had been part of criminological discourse ever since Quetelet introduced the idea, so criminologists knew that people in prison were only a sample of the criminal population. But was it a representative sample, as Quetelet had claimed? Was it true, as Quetelet observed [(1842) 1996:14], that "there is a ratio, nearly invariably the same, between known and tried offences and the unknown sum total of crimes committed"? Or did official data suffer from systematic bias, as Coleman and Moynihan [1996:12] determined?

Self-report studies involve asking people directly about their involvement in rule-breaking behavior [Coleman and Moynihan, 1996:12]; the purpose of the first self-report studies was to bring forward knowledge about nonregistered criminals [Christie, Andenæs, and Skirbekk, 1965:87]. The criminologists wanted to know the extent of nonregistered crime and the kinds of crimes committed. They also wanted to know if the established relationship between crime and such other socioeconomic factors as education, age, and class, all of which were based on data gathered from officially registered criminals, would hold when nonregistered cases were brought into the picture. Would the established theories that explain registered crimes and criminals also explain nonregistered crimes and criminals?

5.2.5.1 "We Are All Criminals": From a Black-and-White Image to Shades of Gray

> Strong forces within most social systems pull towards a polarization between sinners and saints. Seen in this perspective, the major importance of studies of hidden crime is probably their social consequences. They inhibit polarization. They add to the forces in society attempting to perceive the population not in dichotomies of white and black, but distributed between extremes, with the bulk in the middle grey. [Christie, 1971:126]

As the above quote makes clear, maybe the most important finding from the first self-report studies was that offending was far more widespread than official crime statistics indicated. As a consequence, the offender cannot be so clearly distinguished as a minority with certain key characteristics, as

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was once thought [Coleman and Moynihan, 1996:67]. Or, in another formulation:

> These studies have once and for all shown that criminal activities are not limited to one small segment of the population. Crime is not the way of life for the general population but neither is it an uncommon activity. On the basis of these studies of self-reported crime, it seems to be fair to state that we are all criminals, but most of us only to a very small extent. [Christie, 1971:126]

Self-report data further helped criminologists document the selection processes in the criminal justice system by showing how some categories of offenders and offenses were over- or underrepresented in official crime statistics. Such findings supported the interactionist, institutionalist, and radical perspectives on crime statistics. In criminology, self-report data became the empirical basis for labeling, conflict, and other "antipositivistic" theories, also encouraging and strengthening "the radical non-intervention response" [quoted in Hindelang, Hirschi, and Weis, 1981:211]. All in all, self-report studies have been described as one of the most important innovations in criminological research in the twentieth century [Mosher, Miethe, and Phillips, 2002:131].

5.2.5.2 Methodological Problems

Self-report studies also have their biases, one of the most salient of which is an excessive focus on juvenile delinquency [Coleman and Moynihan, 1996:68]. Even if the ideal is to produce a sample that is a microcosm of the population, self-report studies normally use students and pupils as their informants. One can therefore question whether the self-report studies fulfill their purpose of overcoming the biases of official statistics. How *representative* are students and pupils—and their criminal activities—of the population total? Even if self-report studies documented that criminal activity was not limited to a small segment of the population, the studies were criticized for rendering invisible "whole areas of criminal and associated activity" [Coleman and Moynihan, 1996:68], among them corporate crime, domestic violence, fraud, and child abuse. The selection of illegal acts included in the surveys was also criticized for being too trivial, focusing on such typical juvenile offenses as apple stealing, and less on serious offenses [Christie, Andenæs, and Skirbekk, 1965]. By including less serious offenses or even just bad manners, the conclusion that "we are all criminals" gained currency; by choosing more serious offenses, the criminal population would be colored a "darker shade of gray." Even criminologists have agendas, and studies will always be formed by underlying theories, assumptions, and agendas. All statistics, self-report studies included, are products of social processes and actively construct a subjective world of crime, rather than reflect the world.

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Questions concerning sampling, representativeness, generalizability, and question wording are a constant issue for survey researchers in general and can be especially important with respect to surveys on crime [Mosher, Miethe, and Phillips, 2002:131]. A central problem in self-report studies is a difficulty every researcher encounters when conducting surveys: to reach the groups *within* the selected population with the most serious and persistent problems.

Self-report studies have also been criticized for not taking into account an informant's willingness as well as ability to give honest answers. Even if informants are guaranteed anonymity, will they risk revealing that they have committed a serious offense like rape? Moreover, do informants know the legal distinction between, for instance, theft and robbery? Such questions are important to ask when analyzing self-report study data. Most self-report surveys rely on the informants themselves to decide whether what they have done is a criminal offense or not.

How should we treat the discrepancy between self-report studies and official crime statistics? The tendency has been to focus on the omissions, mistakes, and biases of official crime statistics; but of course, self-report studies are not without omissions, mistakes, and biases. Questions of sampling, response rates, representativeness, and generalizability are important, but above all, can we use self-report studies to measure serious crime?

5.2.6 Victimization Studies and Crime Surveys

As with self-report surveys, victimization surveys involve the application of the sample survey to the measurement of crime. Members of a representative sample of a chosen population are questioned on their experience of criminal victimization, that is, crimes committed against them [Coleman and Moynihan, 1996:70]. Usually they are also asked whether the incident was reported to the police. The rationale is that a survey gives a better and more valid picture of crime and its trends than do official crime data. Victimization surveys are seen as shedding light on, or quantifying, the dark figure, and they are often seen as reflecting the true crime rate. Both the British Crime Survey and the UCR Program were developed to measure crimes known to the public rather than crimes recorded by the police [Coleman and Moynihan, 1996:71]. Some countries, like England and Wales, conduct huge yearly crime surveys (the British Crime Survey);* and countries like Norway include questions of victimization in their quadrennial surveys on living conditions.† The

* More information on the yearly crime surveys is available online at http://www.homeoffice.gov.uk/rds/bcs1.html.

† More information on the quadrennial surveys is available online at http://www.ssb.no/english/subjects/00/02/.

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International Crime Victims Survey has carried out surveys in 1989, 1992, 1996, 2000, and 2005 [van Dijk, van Kesteren, and Smit, 2007].*

It is interesting to observe how victim surveys have surpassed self-report surveys as the main alternative to official crime statistics, especially in criminal justice policy.† One explanation can be the increasing focus on situational crime prevention and victimology, which concentrates on crime and its impact rather than on the offender [Clarke, 1995; Coleman and Moynihan, 1996:67).

When comparing official crime data with crime surveys, one can see not only more of the dark figure that is invisible in official crime data but also how trends in recorded crimes do not necessarily correspond with trends in reported crimes. Such comparisons can be a starting point for understanding the behavior of both the victim and the police, especially the tendencies of nonreporting and nonrecording.

5.2.6.1 Questioning the Increase in Official Crime Statistics

Victimization studies contributed to increased skepticism in criminology toward official crime data during the 1970s and 1980s. The results from victimizations studies pointed to a sharply contracting dark figure as the proportion of reported burglaries soared and the apparent crime wave was largely a phenomenon of how the statistics were constructed [Reiner, 1996:201]. Norwegian studies found the same discrepancy when it came to violence, where official crime statistics showed huge increases, but victim surveys showed a much more stable trend [Olaussen, 1996]. In explaining this discrepancy, researchers pointed to such factors as changes in the extent of reporting and how the crime statistics were constructed. So, although different crime surveys confirmed a huge dark figure, in the years when recorded crimes were on a continuous increase, different victimization surveys continued to show a more stable picture [Olaussen, 1996; Reiner, 1996]. However, this discrepancy was often used politically, for critics read publication of survey findings as the attempts of government officials to deny the gravity of the crime problem [Sacco, 2005:67]. One illustration of such political maneuvering surrounds this news comment from England: "'Crime is down,' cheered the Home Secretary yesterday. 'Hurrah,' said Jack Straw. 'No, crime is up,' replied his dark shadow, Ann Widdecombe, in reply. 'No,' crime is definitely down says the British Crime Survey. 'No,' it is up, reply the police. Crime is big politics. So what is going on? Crime statistics are proof positive that, with a bit of art, you can fool all the people all the time" [Jenkins, 2000]. Here we see how different actors use different crime data in order to support their case.

* Survey information and publications are available online at http://www.unicri.it/wwd/analysis/icvs/index.php.

† One important exception from this trend is *The International Self-Report Delinquency Study (ISRD)* [Terlouw, Klein, and Junger-Tas, 1994].

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Despite such criticisms, England and Wales have continued their yearly British Crime Survey, and the UK Home Office now publishes recorded crime and victimization studies in one report, most recently *Crime in England and Wales, 2007/2008*.* This bulletin brings together statistics from the British Crime Survey and crimes recorded by the police to provide a comprehensive account of patterns and trends in the main high-volume crimes.

5.2.6.2 Reassuring Statistics

The aim of the first victimization studies was to reassure the public by demonstrating that the rising crime rates were in part the result of changes in police practice and the public's reporting habits [Coleman and Moynihan, 1996:84]. The low risk of becoming a victim of a crime was emphasized and quantified. For instance, the first report from the British Crime Survey presented the findings, thus: An average person can expect "a robbery once every five centuries; an assault resulting in injury once every century, the family car to be stolen once every 60 years; a burglary in the home once every 40 years" [quoted in Coleman and Moynihan, 1996:84]. By describing "average" risks for "average" people and the petty nature of most crime, the hope was to reassure the public and to reshape the public's perception of crime.

Survey data can be used to suggest that things are not as bad as they may seem. However, when police crime statistics and survey data are published simultaneously, it leads to such mind-bending double messages as "'Crime Is Up 7%" or "Crime Is Down 3%." The former is highlighted while the latter is ignored, as shown in such tabloid headlines as "Crimes of Violence Soar" and "'British Crime Explosion" [Jenkins, 2003]. It is difficult to get the double message through that official crime statistics are declining and that much crime survey data show that when the official records increase, they often do so because of changes in reporting and recording practices. A recent Norwegian study shows, for instance, that although official crime rates have declined for many years, 86% of the respondents believed that there was more crime now than last year [Politidirektoratet, 2006:30].

5.2.6.3 Methodological Problems

As with data from both official crime statistics and self-report studies, victimization surveys are not without their own problems and dark figures. As with self-report surveys, sampling is a challenge. It is impossible to reach all segments of a population, covering age, class, and ethnic background. It is especially difficult to reach the groups with the most serious and persistent problems, including victimization. It is likely that nonrespondents suffer higher victimization rates than respondents [Zedner, 2002:423].

* The crime report can be downloaded from the UK Home Office Web site: http://www.crimereduction.homeoffice.gov.uk/statistics/statistics074.htm.

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Victimization and self-report surveys share another methodological problem, namely, that only a small selection of all possible crimes is included. In addition, the respondent's memory and knowledge shape the results; thus, researchers must ask themselves, "Will they remember and will they tell?" [Coleman and Moynihan, 1996:77]. People may not remember offenses, or perhaps they do not want to reveal traumatic incidents to the interviewer. The context in which the questions are asked is also important. For instance, one study found that some respondents, when sensitized to crime issues by questions on their attitudes toward crime and the police, reported more crimes than others for whom attitude questions were omitted [Maltz, 1977:40].

Victimization surveys can only measure incidents that are *perceived* and *defined* as crimes: "Not only must a victim exist, but the person must also realize that s/he has been victimized" [Coleman and Moynihan, 1996:75]. Both victimization studies and self-report studies are dependent on people knowing the law. If people do not know the law, they can end up categorizing as a crime something that is not—an "over-response" [Young, 2004:19]—but they could also not categorize as a crime something that is.

One obvious shortcoming in using victimization studies to shed light on dark figures is that they can only measure criminal incidents where there is an identifiable victim. The dark figures of such victimless crimes as drug offenses, environmental crimes, some organized crimes, and tax frauds will not become visible in victimization studies. Moreover, victimization studies primarily measure "ordinary crimes"—the very crimes most likely to enter the official statistics. They can be good at measuring certain types of crime, be less suitable at measuring others, and exclude some altogether.

5.2.7 Summing Up

Crime is, above all, a matter of definition, a difficulty that complicates its statistical measurement. Crime must be identified in order to be classified consistently. All data collectors, including police officers, researchers, victims, and offenders, must use their knowledge and discretion in order to decide whether a given action is a crime in a strictly legal sense.

Crime data, be they official statistics or from self-report or victimization surveys, are not facts that necessarily reflect real-life events. Although *statistics* is defined as "the collection and arrangement of numerical facts or data" and *data* is defined as "a thing given or granted; something known or assumed as fact" [*OED* Online, 2009] statistics are, in fact, products. Any data generated by the police or a survey should be treated as a subjective measure of a social process [Coleman and Moynihan, 1996:82]. Major contributors to the misunderstanding and misuse of crime statistics and crime survey data are "the two related assumptions that there is an objective definition of the

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crime problem and that a statistical system can assess this problem without distortion" [Lynch and Addington, 2007:7].

One major problem with using crime statistics as a source of crime knowledge is chronic underreporting (the dark figure). Underreporting disturbs the usefulness of gathered data for the overall composition, level, and trends in crime. Both victimization surveys and self-report surveys are ex post uncoverings of crimes unreported by either victims or offenders [Coleman and Moynihan, 1996]. Levels of reliability and validity vary according to the type of crime, offender, or victim being explored in different aggregated crime data. No available crime statistics, whether official or from self-report studies or crime surveys, give the whole picture; but used with caution, all three types of sources shed light on some of the picture.

Until now, we have mainly treated various crime statistics as a source of knowledge in criminology. We have seen how crime numbers, either official crime statistics or various survey data, are treated in criminological discourse, focusing on the validity and reliability of the data. We now turn to examining how crime data are used in criminal justice discourse. Doing this implies a switch from treating crime data as a source of knowledge to treating them as a tool of governance, with a focus on the politics of crime numbers.

5.3 Crime Statistics in Criminal Justice Policies

5.3.1 The Challenge of Tendentious Statistics

> People create statistics: They choose what to count, how to go about counting, which of the resulting numbers they will share with others, and which words they will use to describe and interpret those figures. Numbers do not exist independently of people; understanding numbers requires knowing who counted what, why they bothered counting and how they went about it. [Best, 2005:212]

The politics of crime data is not a new topic. Already in the mid-1970s, Milakovich and Weis [1975] asked two important questions about official crime data: Who controls the techniques for measuring progress in the war on crime? Who benefits from the results of crime evaluation? The questions highlight the opportunity for *strategic behavior* in crime recording and reporting, a phenomenon often referred to as *fiddling the figures, creative accounting, cuffing crime,* and *picking low-hanging fruits*. It is foremost the police who have not only the opportunity for but also, increasingly, an interest in strategic recording of crime numbers.

Police recording practices may influence official crime statistics as much as do public reporting attitudes and behavior. Bottomley and Coleman found that between 1981 and 1991, police recording of acquisitive crimes reported to them declined, whereas it rose significantly for vandalism and offenses of

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violence. The researchers concluded that an understanding of crime statistics "must take into account the purposes for which they are being used both inside and outside police organizations" [Bottomley and Coleman, 1995:48].

We saw in the first part of the chapter how police recording distorts the validity and reliability of crime statistics as a source of knowledge. Now we must explore the politics of crime statistics in greater detail. For as with all statistics, crime statistics are inextricably bound up with the knowledge and power of governments and have always been used to support specific policy aims [Godfrey, Lawrence, and Williams, 2008].

Let us begin by going back to the BBC News [2005] story "Violent Crime Increases by 6%." Earlier we saw how ministers in office explained the increase by referring to changes in recording practices. Although changes in recording practices are a common topic of interest in a criminological discourse, the politicians' explanations were not part of an academic discourse; they were part of a political discourse. The news story can serve as an example of how methodological aspects of crime statistics are part of not only criminological discourse but also political discourse.

Not surprisingly, politicians in opposition did not question the recorded increase in violent crime. Conservative leader Michael Howard said, "The rise in violent crime confirmed a 'dreadful trend,'" and declared that "the government's law and order efforts were failing." Liberal Democrat home affairs spokesman Mark Oaten said, "Far too many people were victims of violent crime." He declared that the government's plans for around-the-clock open pubs and bars were a "recipe for disaster" and called for "tighter restrictions on the sale of replica firearms and more controls on guns coming into the UK."

Countering this, ministers in office pointed to the British Crime Survey as "the most reliable indicator of where crime is heading." This survey shows that "violent crime is 36% lower now than its 1995 peak" and that "the chances of being a victim of crime are the lowest for more than 20 years." Home Office Minister Hazel Blears said, "It is very encouraging to see that crime is continuing to fall," and the president of the Association of Chief Police Officers, Chris Fox, called the overall fall in crime "hugely encouraging," claiming that new antisocial behavior laws had helped the police tackle such problems as alcohol-fueled disorder.

This news story shows how various stakeholders use crime numbers to claim success or failure. The same numbers can be interpreted as success or failure. One reads meaning *into* numbers, never simply *off* them [Hacking, 1990]. The numbers can be used to draw both optimistic and pessimistic conclusions, and who chooses what reading is not mere coincidence. Methodological debates play an important role not only in criminology but also in criminal justice politics. There is a general tendency to question positive statistics, that crime is decreasing, when you are in opposition. The tendency to question negative statistics, that crime is increasing, is

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more likely from people in office. Methodological concerns can be raised in order to undermine the position of the opponent. Such concerns play a part in discursive politics, for they are a component in a strategic battle. By analyzing the interpretation of crime numbers, we can identify the rhetoric or discourse that shapes our understanding of the numbers that surround us [Desrosières, 1998:322].

Presenting and interpreting crime statistics are not so much descriptive as productive, or perhaps even creative, activities. For instance, consider which observed variables imply a link between two target phenomena, say, immigration and crime levels? Who chooses the variables to include: the statisticians, the politicians, or the academics? Statistics are in that way self-inventing and self-perpetuating. Both the neglect of variables and the use of variables build and reinforce popular knowledge about crime and its causes [Pease, 1999]. Another example is the clear-up rate. The decline in the police clear-up rate has been used to make claims about decreasing police efficiency and the need for more police resources. However, if we related the number of cleared-up offenses to the number of police officers, instead of relating the number of cleared-up offenses to the number of recorded offenses, we would find that the number of crimes cleared up per police officer has increased, from 5.3 in 1965 to 10.9 in 1992 [Bottomley and Coleman, 1995:50].

Likewise, dark figures are used by various actors for various purposes in crime policy discourse. When the point is to show that crime is a pressing problem, official crime statistics are presented as *underestimates*, and the dark figure can be used to illustrate that the problem is actually much worse. It is always easy to point to the fact that there exist cases that we do not learn about. In these circumstances, the dark figure lends added credibility to the official numbers.

However, in the years when recorded crimes were on a continuous increase, crime surveys generally pointed to greater stability, contradicting the message of official data that crime was increasing. The increase in official crime statistics could therefore also be presented as *overestimates*, as we saw examples of earlier in this chapter. The increase in official crime statistics has proved very resistant to challenge. Alternative data are often read by critics as "an attempt on the part of government officials to deny the gravity of the problem" [Sacco, 2005:67]. The burden of proof will always rest with those whose numbers challenge conventional wisdom, and in crime policy discourse conventional wisdom has for decades been yearly increases in recorded crime. Their methodologies will be subject to greater scrutiny by proponents of the currently accepted definitions of the problem [ibid.]. Such critical scrutiny is a strategy to destabilize or destroy the face value reading of the numbers:

> Our critical faculties come into play when we confront a statistics that challenges what we believe; we become analytic tigers pouncing on problems of improper sampling, dubious measurements, and so on. On the other hand, we tend to

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> be more forgiving when we encounter numbers that seem to support what we'd like to think. Oh, maybe our figures aren't perfect, but they're certainly suggestive, so let's avoid quibbling over minor matters. [Best, 2005:211]

In order to understand the politics of crime numbers, we must first identify the stakeholders. How police, victim interest groups, statistical agencies, or other criminal justice bodies produce and interpret crime data depends on the policy aims of such organizations. Numbers are always produced by someone for some purpose. However, purposes change with changing governance ideologies. For a long time there was "a strong interest in keeping the number high and none in keeping it correct" [Reuter, 1984:136]. For instance, the police have for a long time had a strong interest in portraying crime as increasing and getting out of control. Such a portrayal guaranteed media coverage and politicians who wanted to give more resources to the police. Until recently, more crime meant more money to the police. However, as we see later in the chapter, this has changed, especially as a result of a public service reform that has swept across Western countries in the last two decades, a reform often labeled New Public Management (NPM) [Hood, 2007]. This reform has given crime statistics a new role to play as a performance indicator.

5.3.2 Policing by Numbers

> Issues of costs and effectiveness are foregrounded in policy decisions today to an extent never seen before, and the police, the court, and the various penal agencies are costed and audited more thoroughly today than at any time in their history. [Garland, 2001:188]

Much of what used to be called "public administration" has been renamed "public management" [Hood, 1998:3–4]. *Management* is a concept that makes governments more businesslike and highlights production-engineering aspects of public service provision, rather than the complexities of politics and accountability, a notion with which *administration* is often obsessed. A central theme of contemporary public service reforms is managing government and public services—among them the police and the criminal justice system—by numbers that describe outputs, outcomes, inputs, and throughputs, that is, by using quantitative performance indicators [Hood, 2007:95]. Under the NPM label, the public sector in many countries was reformed in the 1980s and 1990s [Christensen and Lægreid, 2007; Garland, 2001; Hood, 2007]. In governmental development, NPM is the latest and most significant manifestation of what Weber called the process of *rationalization*, the quest for greater calculability and precision in public management and administration [Gregory, 2007:222]. Indeed, NPM has been sold as a "brave new world era of rational de-politicized policy making" [McLaughlin, Muncie, and Hughes,

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2001:313]. What is important for us is the increased emphasis that NPM ideology places on achieving results rather than administering processes, setting explicit targets and performance indicators to enable the auditing of efficiency and effectiveness and the publishing of league tables illustrating comparative performance [ibid.:302; Long, 2003]. This has resulted in a new managerialist, businesslike ethos that emphasizes economy, efficiency, and effectiveness in the criminal justice system [Garland, 2001]. The intention has been "to replace 'old' criminal bureau-professional arrangements with multi-functional integrated partnerships whose performance is dominated by the requirement to produce measurable and quantifiable outputs and cost-effective outcomes" [McLaughlin, Muncie, and Hughes, 2001:313]. These new practices affect not only the management of the organizations but also their mission [Garland, 2001:116]. As we see later in the chapter, the new practices also affected the production and interpretation of crime statistics.

The old criminal justice system was described as rule driven and reactive, preoccupied with inputs, not outputs or outcomes. From a management perspective, the justice system was condemned as "uncoordinated, inefficient and ineffective" [McLaughlin, Muncie, and Hughes, 2001:308]. Also, we find similar descriptions in police sociology. The most important description is perhaps from Herman Goldstein, who in an influential 1979 article advocated a new, "problem-oriented" approach and criticized policing for having become preoccupied by a "means over ends" syndrome, focusing efforts on organizational and operational issues while ignoring the substantive outcome of police work—problem solving [Goldstein, 1979]. Furthermore, the so-called New York Police Model, put in place by Commissioner Bratton in the 1990s, made crime reduction the police force's foremost responsibility. Influenced by modern management principles, Bratton "reengineered" the NYPD "into an organization capable of supporting our goals" [Silverman, 1999:82]. Crime was a problem to be solved, not simply an event to which the police react. This approach was concurrent with "the police vision of order," which has always "focused on the dream of general prevention of wrongdoing, rather than on capturing and prosecuting the individual wrongdoer" [Ericson and Shearing, 1986:148].

The management agenda "arrived with a vengeance" [Painter, 2005:307], constituting a reform called the most "sweeping" for criminal justice agencies in over a century [McLaughlin, Muncie, and Hughes, 2001:303]. Instead of rules and inputs, one of the most influential ideologists has argued, there must be a transformation into a mission-driven and results-oriented government [Osborne and Gaebler, 1993]. The new ideology seeks to change the rewards and incentives, the most important of which for the present discussion is the change from funding according to inputs to funding according to outcomes. Before, "police departments typically got more money when they failed"—that is, when the crime rate rose. "Because they don't measure results,

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bureaucratic governments rarely achieve them" [ibid.:139]. It is interesting to note that crime statistics have been transformed from an input to an outcome, the incentive changing from increasing recorded crime (in order to increase funding) to decreasing recorded crime (in order to increase funding).

To the new management ideology, performance measurement, inspection, and audit are vital, for "what gets measured gets done" [Osborne and Gaebler, 1993:146]. The "audit culture" arrived [Strathern, 2000], and the crime control field has since become saturated with technologies of audit, fiscal control, measured performance, and cost-benefit evaluation [Garland, 2001:189]. Criminal justice agencies thereby became responsible for reducing crime through reflexivity and self-monitoring [ibid.:115].

This new way of thinking about public services implies transforming the crime rate from input to outcome—a *result* of police work instead of a *starting point*. Quite literally, crime statistics have been translated or transformed into achievements, results, or performance.* In fact, "criminal justice agencies now publish business plans with specified aims, objectives, performance measures, efficiency targets and clearly defined outcomes" [McLaughlin, Muncie, and Hughes, 2001:6]. The language has changed. One example is the South Yorkshire police force in England, which on July 22, 2008, issued a press release, available on its Web site, beginning, "Performance figures for the first quarter show South Yorkshire Police has made an excellent start to the year with a significant drop in crime compared with the same period last year (April to June)." The enumeration of crime not only makes crime itself governable, with crime statistics translated to a performance indicator, but also makes the police governable.

Another aspect of the managerial reform is *marketization*, the drive to improve cost efficiency and performance effectiveness through the imposition of market disciplines on the police service [Jones, 2003:16]. Crime statistics came to play a role in this trend as an answer to the frustration with the apparent lack of results following major increases in police allocations. The crime rate became one of the key performance indicators, not only evaluating the overall performance of a police force but also determining police pay and of the continued employment of a police commissioner. For instance, the Police Reform Act of 2002 in England and Wales gave the home secretary the power to intervene "in ineffective or underperforming forces," which could mean replacing the commissioner if the crime rate did not go down.

As we have seen, within the new public management ideology, with its results-oriented approach, the focus has shifted from inputs to outputs and outcomes. Outcomes are assessed through measurement according to

* Several police Web sites publish crime statistics under such headlines as "Results" and "Police Performance." See, e.g., UK Home Office [n.d.] Web site, "Police Performance and Measurement," http://police.homeoffice.gov.uk/performance-and-measurement/.

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quantifiable, numerical criteria. The crime statistics were already there and now became useful for a new purpose. As criminal justice agencies become increasingly subject to inspection, audit, evaluation, and other means of testing their performance against defined criteria, crime statistics gained a new role and there developed the need for new data, for example, "incident data," which details calls to the police reporting incidents of crime or disorder, with indications of the police response and its outcome. Customer satisfaction has also become part of police performance measurement, indices of which have been developed to monitor levels and types of police activity.

The more pressure is placed on performance, the more punishment and rewards are linked to the crime rate, the greater the temptation to manipulate the statistics—not necessarily to outright falsify, but to employ such techniques as deceptive classification and tolerance of methodological inadequacies. A joke from Soviet Russia can illustrate this relationship: While interviewing a candidate for auditor of a Soviet factory, the manager asks, "How much is two and two?" The candidates who say "four" or "five" are not offered the job. The one who responds, "How much do you need?" gets it [Starr, 1987:35]. We will now look more in detail as the consequences such new performance management has on crime statistics.

5.3.3 Effects on Crime Statistics

> While the primary rationale for managerialized criminal justice is contained within the seemingly non-ideological and apolitical logic of cost-effective evaluation/re-evaluation and audit/re-audit, criminal justice professionals should not underestimate the extent to which they are centrally implicated in rewriting the script of governance. [McLaughlin, Muncie, and Hughes, 2001:313]

Much attention is given to the benefits performance indicator schemes will have on the criminal justice system. Less attention has been paid to the potential costs. Costs are not necessarily intended, but they may nonetheless cause dysfunction. Let us take a closer look at some of the more dysfunctional aspects of performance-oriented governance.

5.3.3.1 Tunnel Vision

Tunnel vision is an emphasis on activities that are quantified in the performance measurement scheme at the expense of unquantified, perhaps unquantifiable, activities. Many important objectives and activities in policing simply defy adequate quantification. As Albert Einstein once stated, "Everything that can be counted does not necessarily count; everything that counts cannot necessarily be counted" [quoted in Broadbent, 2007:193]. There is a danger in ignoring unquantifiable aspects of policing. Performance targets may skew policing activities, priorities, and styles [Painter, 2005:311].

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The activities of the criminal justice system have implications well beyond the immediate target of crime reduction.

5.3.3.2 Myopia

Performance measurements and indicators can induce managerial *myopia*, the pursuit of short-term targets at the expense of important long-term objectives [Smith, 1995:288]. The number of recorded crimes in one year may be the result of years of endeavor; many police objectives may best be served by long-term strategies that do not necessarily bear fruit in the short term. Such public services as the police have elusive objectives and are profoundly susceptible to myopia induced by performance indicator schemes.

5.3.3.3 Misrepresentation

Misrepresentation is the deliberate manipulation of data so that reported behavior differs from actual behavior. If excessive reliance is placed on performance measurements, there is clearly an incentive for managers to manipulate data under their control to show their organization's performance in the most favorable light [Smith, 1995:292]. This can take two forms: creative reporting and outright fraud. As we have seen, numerous studies have documented the discretion that police have when it comes to how a report can be recorded. The police use their professional judgment to describe, categorize, and ultimately record an event. Performance indicators can influence this judgment by becoming a strong incentive to choose the category that maximizes the organization's performance result.

Cuffing crimes (not making a formal record of them) and *down-criming* (recording crimes as the least serious category possible) are also examples of misrepresentation. Such practices were rife in the past, but much was done to reduce them. The new pressures on the police are likely to result in a return to policing by numbers [Reiner, 1996:203].

5.3.3.4 Misinterpretation

Crime problems are immensely complex, and interpreting trends in the crime rate is therefore equally complex. Using crime statistics to judge police performance is therefore open to *misinterpretation.* The number of recorded crimes from year to year provides no insight into the numerous variables that mold crime in various districts. There are many possible reasons why there might be differences in the reported performance (reported crime) in two police districts, the main one being that they operate in different environments. Two fallacies may result from using crime data to judge police performance: First is the *cosmetic fallacy,* which conceives crime as a superficial problem of society, skin deep, a problem that can be dealt with using the appropriate ointment, rather than as a chronic ailment of society as a whole

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[Young, 1999:130]. Second is the *constabulary fallacy,* involving the tendency to think that the police know about crimes that have been committed and are the key to crime prevention [Felson, 1994:8]. D. H. Bayley [1994:3] calls this fallacy a myth:

> The police do not prevent crime. This is one of the best kept secrets of modern life. Experts know it, the police know it, but the public does not know it. Yet the police pretend that they are society's best defense against crime and continually argue that if they are given more resources, especially personnel, they will be able to protect communities against crime. This is a myth.

Reiner [2000:215] adds, "The police function more or less adequately as managers of crime and keepers of the peace, but they are not realistically a vehicle for reducing crime substantially. Crime is the product of deeper social forces, largely beyond the ambit of any policing tactics."

5.3.3.5 Gaming

The phenomenon of playing the system became well known in the Soviet economy, where managers were rewarded for reaching targets. The problem, of course, was that targets were typically set with reference to previous performance; and although managers had an incentive to fulfill targets, they had a much stronger incentive to keep future targets modest by chronically underperforming [Smith, 1995:297]. In performance management systems, managers therefore have an incentive to minimize the apparent scope for productivity improvements, as any reported improvement in one year will result in increased expectations (and targets) for future years [ibid.:298]. Such behavior is known as *gaming*—the deliberate manipulation of behavior to secure strategic advantage. Whereas misrepresentation leads to distortions in reported behavior, gaming is the equivalent manipulation of actual behavior.

5.3.3.6 Deleterious Results of the Ethos of Performance Management

What effects will performance management and measurement have on crime statistics? Critics have pointed out several dangers that resemble some of the dysfunctional costs of performance management described earlier: skewing practice to fit performance indicators, limiting the discretion of field staff, diminishing real effectiveness in order to maximize the practices that are most easily measurable [Garland, 2001:189]. One likely effect, for instance, is to set targets that represent more easily achievable reduction targets than others. Targeting domestic violence and hate crimes, for example, may result in an increase rather than a reduction in recorded crime. There is a clear danger that what can be reduced in crime is largely synonymous with what can

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be counted, audited, and easily targeted [McLaughlin, Muncie, and Hughes, 2001:311]. However, there are some police districts that aim to *increase* the number of recorded domestic violence while reducing violent assaults in general [see, e.g., the 2006 performance indicators in Norway's Agder police district]. Another example, from France, is that a high number of positive blood-alcohol tests is a success criterion for the police (defined as output, a successful detection rate), whereas a low number of positive blood-alcohol tests is a success criterion for the traffic police (defined as outcome, or successful prevention) [Desrosiéres, 2007]. In a target-driven culture, one can choose when setting targets to increase the number of offenses discovered by the police (detection) as well as to decrease it (prevention) [Gilling, 1997]. Either way, what we can observe is that when the resulting statistics are published, increases in crime are often interpreted as outputs ("what the police do," or detection rates), whereas decreases are interpreted as outcomes ("what the police achieves," or crime prevention). The same recorded offenses can thus be interpreted as both the output and the outcome of police work.

As we can see from the preceding example, there is an important interplay between the production and interpretation of crime statistics and their role in the governance of crime, in general, and of the police in particular. A fruitful concept to apply to this interplay is *co-construction* [Oudshoorn and Pinch, 2003]. This concept was developed in technology studies, where it describes what users do with technology and, in turn, what technology does to users. Users consume, modify, domesticate, design, reconfigure, and resist technological development. At the same time, users are defined and transformed by technology. This perspective can also be fruitful for understanding the relationship between statistics and governance. Society and the statistics that measure and describe it are co-constructed. The act of counting its citizens, territories, resources, crimes, and so on is one of the ways in which the state and its agencies participate in creating itself, its citizens, and the policies, rights, expectations, services, and so on that bind them together. The police are defined and transformed by the new public management ideology and its results- and performance-oriented approach, but at the same time the police domesticate, modify, design, reconfigure, and even resist the performance regime.

5.4 Concluding Comments

One of Woody Allen's classic jokes, told at the beginning of the film *Annie Hall*, is as follows: "Two elderly women are at a Catskill Mountain resort, and one of them says, 'Boy, the food at this place is really terrible.' The other one says, 'Yeah, I know, and such small portions.' Woody adds: 'That's essentially how I felt about life'" [quoted from Levitas and Guy, 1996:1]. This ambivalence

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is also reflected in how social scientists feel about official statistics [Levitas and Guy, 1996], and this may be how the reader feels by now.

"All forms of crime data are deficient in their various ways," according to C. Coleman and J. Moynihan [1996:68]. There have been conflicting views of crime statistics in criminology throughout its history. Already in 1970, Morris and Hawkins [1970:212] stated, "Propositions regarding 'the volume of crime' hardly belong to the realm of significant discourse, for crime is not a unitary phenomenon; it is a label applied to a thousand diversities of behaviour. Their aggregation is a pointless exercise in mixing the immiscible, and quantification only lends a spurious air of precision and clarity to statements which are inherently confused."

Reading a chapter on the problems and pitfalls of crime statistics can cause a feeling of being "sceptical to the point of hostility" [Levitas and Guy, 1996:1], of believing that the statistics are a thoroughly unreliable basis for claims about the state or development of crime in society. However, the reader who feels that complete skepticism is the only sensible and safe option might consider the following: Official statistics on crime are useful for a number of purposes, and there is no reason to adopt the extreme relativist position that quantitative data tell us *nothing* about crime [Maguire, 2002:322]. If we use quantitative data cautiously, properly understanding how they are constructed and what their systematic biases may be, they can tell us about crime patterns and trends. "The rationale for sociological inquiry into statistics is partly to avoid being deceived by official statistics" [Starr, 1987:57]. The trick is to approach quantitative data critically and to understand how, why, and for what purposes they were produced [Maguire, 2002:322]. Taking such an approach, one may, perhaps, achieve "the awareness of thin ice, yet the ineluctable desire to keep on skating" [Young, 2004:19].

It is also important to know some of the major changes that have been occurring in the production, and also use, of numerical knowledge about crime and the reasons behind them. Changes in the production and use of the key data sources influence the picture of crime they produce. The point made in this chapter is that crime statistics are not only sources of data but also legitimate objects of investigation. The prospective student of crime and criminology needs to think critically about various criminological presentations of crime data, as well as about media presentations and how policymakers and criminal justice agencies view crime data [Walklate, 2005].

Multiple data sources, among them official statistics, self-report studies, and victim surveys, make triangulation possible, which permits reasonably safe judgment about whether they broadly point in the same direction. We have more and better data on crime than ever before, with regular crime surveys in many countries, which allow reasonable confidence in judging whether official measures of change are broadly misleading or not.

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Criminology, as well as crime, is the outcome of social forces [Christie, Andenæs, and Skirbekk, 1965:124]. But so too are crime statistics. In this view, rather than evaluate crime statistics as inaccurate or unreliable, we should treat them as a social fact, an empirical phenomenon with its own existential integrity. They are an aspect of social organization and cannot, sociologically, be wrong [Black, 1970:734]. Maybe we should encourage the study of crime statistics as an end in itself, not just as a means for studying crime. Criminologists learn to use statistics as a means of analysis, but infrequently see statistics as objects of analysis. Thus criminologists should be encouraged to use statistics not only as a means of looking for shortcomings, distortions, or ways to improve but also as a tool, an object of analysis, for studying crime statistics as social phenomena in their own right, within the emerging general focus on the sociology of statistics.

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The Subculture Concept
A Genealogy

6

ALBERT BELL

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6.1 Revisiting Subculture: Scope and Purpose

Social criminologists approach their inquiries into those aspects of social deviance that capture their imagination and interest through a conceptual framework that is often informed by a theoretical construct—an ideal type through which one defines, explains, and elaborates the phenomenon at stake to make sense of the infinitely kaleidoscopic nature of the social reality under scrutiny. The subculture concept is one such ideal type [Muggleton, 2000]. As will be examined in this chapter, the origins and foremost applications of the concept may be traced and firmly located within classic criminology and cultural deviance theory. The concept was reworked, rearticulated, and rejuvenated in the 1970s by Phil Cohen, John Clarke, Stuart Hall, Tony Jefferson, Paul Willis, Dick Hebdige, and other theorists pertaining to the University of Birmingham's Centre of Contemporary Cultural Studies (CCCS) in the United Kingdom [Bennett and Kahn-Harris, 2004b; Brake, 1985; S. Cohen, (1972) 1993; Jenks, 2005; Weinzierl and Muggelton, 2004]. With the rise of postmodernist sociology, the use and application of the subculture concept as an effective analytical tool became hotly contested. The understanding of (essentially youth) subcultures as shared, collective solutions to problems of status frustration and adjustment, marking rupture from the value consensus pervasive in normative society (as contended in *anomie*-inspired cultural

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deviance theory), or as inherently symptomatic of working-class resistance to class oppression (as promulgated and articulated by the CCCS), found little favor among such postsubculturalists as Muggleton [1997, 2000], Bloustein [2004], Stahl [2004], and other dissenters. These invariably sought to develop a model or ideal type of subculture distanced from the trappings of what such authors considered to be totalizing and a priori theoretical frameworks, which were distanced and far from synchronized to the effervescence and fluidity of contemporary social milieus.

Such attempts to rearticulate the subculture concept echoed Redhead's [1990] and Thornton's [2001 (1995)] claims that the orthodox traditions in subcultural studies are too theoretically and ideologically bound to avoid value judgments on the social worlds that constitute subcultures. Thornton, for example, contends that heavy reliance on such binary oppositions as us versus them, mainstream versus subculture, middle class versus working class, and avant-garde versus bourgeois engender historically inaccurate accounts of the development of youth culture and undermine the possibility of arriving at a thorough representation of the complex plurality of contemporary youth cultures" [ibid.] For Thornton, traditional subculture theory's dichotomies of difference (subcultural) versus conformity (mainstream) and resistance versus submission no longer hold any explanatory power for the paradoxes that characterize present-day youth culture. Thornton [ibid.:3] uses the concept of "taste cultures" rather than "subcultures" to describe the ad hoc and fluid boundaries of the 1990s British dance and clubbing scene she investigated. Thorton's work spurred a host of post-CCCS authors [see, e.g., Bennett, 1999; Chaney, 2004; Maffesoli, 1988, 1996; Malbon, 1998; Muggleton, 1997] to develop new terminologies to describe contemporary youth and popular cultures, while deriding the term *subculture* as problematic, anachronistic, and redundant. For example, Polhemus holds that within the "supermarket of style" engendered by the modern fashion industry spurred to cater for the hyperindividualism present in postmodern society, it is more opportune to speak of "styletribes" [1997:131]. Contrary to the fixed identities and boundaries of modern subcultures, the postmodern styletribes are made up of loosely bound multiple selves. For Polhemus, styletribes are characterized by "a process of semiological terrorism" where "everything is possible but nothing connects" [ibid.:131–32]:

> Back in 1964 you *were* a Mod or a Rocker. Today, you're *into* techno, Ragga and Acid Jazz. It's the difference between swimming and sticking your foot in the pool to checkout the temperature—an exploratory dalliance version of immersion and commitment.… I discovered that the nearer I got to the present day, the harder it was to find a person prepared to say, for example,

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> "I'm a techno," "I'm a Raggamuffin," "I'm a Raver," "I'm a Cyberpunk," "I'm a Traveller," etc. Everyone it seems is an individual. One expects that on Brighton beach in 1964 things would have been different.

Similarly, Muggleton contends that the commodity-based sensibilities of contemporary youth cultures render the terms "post-subculturalists" or "fashion tourists" [1997:180] more suitable to describe young people today. The contemporary subculturalist is not essentially immersed in deviant, oppositional, or resistant styles and practices but is engaged in pursuing a host of inter-changeable, fleeting, and disposable stylistic opportunities. Thus, in postmodern societies, "subcultural authenticity" and distinctive style make way for "stylistic eclectism" [ibid.:176]. Muggleton posits that the subcultural styles in today's world of "pastiche" are nothing more than simulacra or imitated images where stylistic innovation is no longer possible. All that is left is the imitatation of style [ibid.:179]. Muggleton argues that the borders between subcultures are much more fluid than considered by the progenitors of subculture theory. This fluidity characterizes both individual subcultures and subculturalists. Subculturalists primarily conceive of themselves as individuals rather than members of a wider group. Subcultures are thus the milieu for the individual to seek individual freedom away from structures. Subcultures are "collective expressions and celebrations of individuality," contrary to the collective and tightly bounded forms and structures that cultural deviancy theory and the CCCS conceived them to be.

These attempts at supplanting the subculture concept owe much to Maffesoli's [1988, 1996] ideal type of the "tribus" or "neo-tribe." Maffesoli's work centers on the notion that postmodern, fluid, yet deindividualized mass cultures offer the prospect of multiple and contemporaneous sites of belonging and identification to "style nomads." Style nomads spontaneously congregate into networked, yet unstable sensuous microcultural nodes, "social nuclei," or tribes that do not possess fixed boundaries as did the subculture of yore [St. John, 2004:65–67]. The concept has also been very influential in pop music subcultural studies [ibid.:67] and the development of post-subcultures theory in general [Weinzierl and Muggleton, 2004]. The impact of Maffesoli's neo-tribe on the latter has been such that it has been described as an "invaluable heuristic device for subcultural research" [ibid.:12], one that is "superseding subculture" as an analytical tool [St John, 2004:65].

For example, Maffesoli's enduring influence has surfaced in Bennett's [1999] and Malbon's [1998] contestations of subculture and preference for "neo-tribe" and "transitory tribe." In addition, Hetherington [1998:330] uses the term to describe the lifestyle and social identification process inherent to new age travelers, while Weinzierl [2000] uses "temporary substream networks," a concept emphasizing the hybrid, fluid, and nomadic nature

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of postmodern subcultures. Winge's [2004] "modern primitives" also seem heavily indebted to Maffesoli's neo-tribe concept. For example, Winge uses his term *modern primitives* to describe "late or post-modern" body modification subcultures [ibid.:128] whose rituals signify "hybridized meanings produced through the relocation of traditional symbols in a late-modern, urban context" [129].

While certainly captivating and innovative, this maze of theoretical refinement is not flawless. St John [2004], for example, holds that despite its merits, one should approach the Maffesolian neo-tribe concept with caution [ibid.:65]. He believes that "there are limitations to an unqualified Maffesolian approach" to explain activist "technocultural counter-tribes" [ibid.:77]. For St John, neo-tribe theory does not exhaust "the life-strategies of contemporary youth" and the "sea of conscientious youth" [ibid.:69] as epitomized in "movement nuclei" committed to a search for authenticity and expressing shared grievances and belonging while attempting to forge political changes [ibid.:70]. Thus, rather than completely discounting the subculture concept, what is required for this author is a "differential 'subcultural' modelling" that is attuned to the contemporary realities of modern youth tribes possessing "porous boundaries" yet still demonstrating "a strong will to difference" and imbued with "a depth of meaning and purpose" [ibid.:77–78].

Both Hodkinson [2002, 2004] and Sweetman [2004] also shed doubt on the analytical vigor of such revisionary ideal types, particularly in the light of the enduring applicability of the term *subculture* to describe some dimensions of present-day subcultural practices. For example, for Hodkinson, contrary to the postmodern or post-subculturalist ideas on the volatility and fickleness of contemporary lifestyle groups, devoid of subcultural commitment and in a perpetual nomadic state of transience, the contemporary social milieu consists of distinctive groups containing a high degree of "subcultural substance." For Hodkinson, thus, the post-subculturalist notion that "discreet, committed and clearly bounded groupings" have subsided to the temporary, partial, selective, fluid, and transient "collective affiliations" has clear limitations [2002: 285].

In the wake of this refound applicability and endurance of the subculture concept, it is thus opportune to revisit its core precepts. The urgency for such an attempt is heightened by the fact that in the process of developing new ideal types, the theoretical keystones of the concept have been diluted as best suited for efforts at rearticulation. This has strong implications for tracing the genealogical roots of the subculture concept in classic criminology. Though, as already noted in this chapter's opening paragraph, the origins of the concept in classic criminology and cultural deviance theory are widely acknowledged, attempts at unraveling the criminological roots of the subculture concept at the depth and scope that more thorough genealogical accounts deserve and

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call for remain skimpy and sparse, at best, and very often are surmounted by efforts to denounce the subculture concept as impractical, anachronistic, and lacking theoretical prowess.

The following pages thus aim at providing redress to the foregoing and to forward a genealogical account of how the subculture concept emerged from early criminology and the sociology of deviance. This is not to say that this chapter presents a conclusive account of the concept's original scope or that it does not fall prey to its own sins of omission. A complete treatise of the development of the concept certainly necessitates further depth and rigor. However, by refocusing the origins of the concept of subculture within the domain of social deviancy theory, it is hoped that some redress to the abandonment and dismissal of the incipient articulations of the concept is achieved and more light is shed on the role social deviancy theorists have played in shaping this invigorating corpus of theory.

6.2 Realigning Subculture to Criminology: The Wider Agenda

As Jock Young [1998:451] aptly asserts, criminology in general (and I shall not hasten to add its subculture tradition here) has much to offer social science:

> Many of us were attracted to the discipline [*criminology*] because of its theoretical verve, because of the centrality of the study of disorder to understanding society, because of the flair of its practitioners and the tremendous human interest of the subject. Indeed many of the major debates in the social sciences in the 1960s and 1970s focused quite naturally around deviance and social control. And this is as it should be—as it has been throughout history in both the social sciences and in literature—both in mass media and the arts.

This is not to say that over the years, criminology and the sociology of deviance have not themselves contributed to their disenchantment by the social science establishment. Young [1998:451] holds that criminology is running the risk of drowning within a torrent of "atheoretical empiricism," whereby the attraction of undertaking theoretically informed empirical work is subsiding to the seductive prowess of theoretically sterile yet profit-making and symbolic capital-building research projects. These precepts are resounded in the writings of several other critical criminologists, among them Currie [1999], Hil [2000], Nelken [1994], and O'Brien [2005]. Nelken [ibid.:2], for example, convincingly states:

> With some important exceptions—the rethinking in penology stimulated by the writings of Foucault, the debates over law and criminology within

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> feminism, some recent work on crime and the media—little attention has yet been given to the theoretically daring work which is being done in disciplines such as linguistics, semiotics, cultural studies, social theory or anthropology or even in closely related disciplines such as sociology of law, or intellectual movements such as critical legal studies. Far from pioneering in these fields few scholars writing as criminologists have even tried to face the possible relevance for their subject of contemporary debates such as those concerning deconstruction or philosophical pragmatism.

Similarly, in a rejoiner to Elliot Currie's [1999] essay *Reflections on Crime and Criminology at the Millennium*, Richard Hil [2000:7] points an accusing finger at the economic-liberal philosophies and managerial practices stumping the intellectual endeavor of university-based institutions as the root cause for the hiatus in critical engagement among contemporary criminological scholars. These views resound Downes and Rock's [1988:13–14] comments on the sterile state of the sociology of deviance toward the beginning of the 1990s:

> The market economy of academic thought and persons has resulted in a confusing array of efforts to achieve product differentiation. Publicly, at least, there is little merit in the humble examination of second-hand thought. There may be an explosion of knowledge in the West, but the sociology of deviance suffers from the hyperinflation of a debased currency.

The stagnation gripping criminological theory does not seem to have shifted with the onset of the new millennium. O'Brien [2005:611], for example, calls for a "criminological style" that is "'unmoored' from the policy oriented pragmatism of much of the mainstream [criminology]." These views tie in with Michel Foucault's [1977] concerns on the dissipation of intellectual endeavor in criminology. For Foucault, modern criminology is plagued by right realism, couched in false assumptions of consensus and unified interest, and is, ironically, concerned with identifying solutions to the underclass's criminogenic patterns of behavior created by the forces the discipline serves and is aligned to. As a result of criminology's ascendant conservatism, the discipline has shifted toward the headlong espousal of reactionary concepts such as increased surveillance, just deserts, target hardening, and zero tolerance—myopic solutions for crime that fail to take cognizance of the deep-rooted social inequalities and resentment that persist in today's society worldwide:

> The experience of deep inequalities, bereft of the security of naturalness and cast in the light of contingency, create not alienation (for what is there to be alienated from?) but resentment. As Friedrich Nietzsche warned, the emotion

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> of the repressed in the postmodern condition cannot be seen in the rationality of meaningful dialectical engagement, but as the absence of meaningfulness. The rage of the deprived is vengeance on anything which links to the excesses of the advantaged. [Morrison, 1994:148–49]

One may argue that it is precisely the increasing proclivity for readers in criminology to detach themselves from theoretically enriching work, which has led critics to deride criminologists as reactionary scholars lacking the "imagination" necessary to contribute to our understanding of social reality.* The dearth of theoretical insight plaguing most criminology for several years now may also be one reason for authors within the broad and complex realm of culture studies and parallel fields of academic inquiry to disregard the impact the discipline has had on cultivating interest on subcultures and in giving form to the subculture concept. Clearly then, locating the origins of subcultural theory within the broader ambit of social deviance and criminological theory is not only congenial to this chapter's endeavors to trace the genealogy of the concept of subculture; it is also useful to help reevaluate early and classic criminology's theoretical richness and legacy. It is to this legacy's quintessence in subculture theory that our attention now turns.

6.3 Subculture: The Durkheimian Legacy

The term *subculture* (particularly in its hyphenated usage *sub-culture*) was first used in the 1940s [Thornton 1997], coming to the fore with Milton Gordon's *The Concept of Sub-culture and Its Application* [(1947)1997]. Exemplifying the concept with reference to Philadelphia's Quaker subculture, Gordon [ibid.:41] defines *subculture* as a part of the prevalent, "national culture" and "composed of a combination of factorable social situations," including class status, ethnic background, regional and rural or urban residence, and religious affiliation. For Gordon, subculture is a "functioning unity" comprised by elements of these "factorable situations" that "has an integrated impact on the participating individual" [ibid.]. Gordon's definition templated the understanding of subcultures as "closed and relatively structured systems of social organisation," "worlds within worlds," that had formerly been grouped within broader sociological concepts such as class and ethnic group [Thornton, 1997:14].

* This critique is not restricted to criminology. Gouldner [1969, 1973], for example, accuses Western sociology with the overwhelming role that powerful vested interests play in determining the discipline's empirical and theoretical agenda. Gouldner also argues that academic research in its various forms is a fundamental instrument for the management of advanced capitalism's hold over the Western world.

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It is interesting to note that within this early definition, subculture was not linked to a single, exclusive social referent. Rather, subculture was tied to a broad range of associated factors. As the usage of the term *subculture* progressed well into the 1970s, the class-based definition of subculture achieved primacy in the literature. The following definition by Graham Murdock [1974:213] illustrates this perfectly:

> Subcultures are the meaning systems and modes of expression developed by groups in particular parts of the social structure in the course of their collective attempts to come to terms with the contradictions of their shared social situation. More particularly, subcultures represent the accumulated meanings and means of expression through which groups in subordinate structural positions have attempted to negotiate or oppose the dominant meaning system. They therefore provide a pool of available symbolic resources which particular individuals or groups can draw on in their attempt to make sense of their own specific situation and construct a viable identity.

Various articulations of the concept continued to build and refine these early definitions. Johnston and Snow [1998] offer an emphatic case in point, developing a subculture concept that incorporates elements of both Gordon's and Murdock's earlier definitions. For Johnston and Snow [1998], an adequate conceptualization of subculture necessitates five fundamental elements, namely:

(a) Shared values and norms with the enveloping culture, rather than complete autonomy;
(b) Distinctive practices, such as style, demeanor, and argot that demarcate the subculture's boundaries from the rest of society;
(c) Specific beliefs, preferences, tastes, and values that are "elaborated" through subcultural interaction;
(d) A collective "fate or dilemma" resulting from a commonly shared position or condition in the wider social structure; and
(e) Patterned relationships and interactions within the subculture and between the subculture and the larger social structure.

These milestone definitions of subculture provide rudimentary insight on how the concept has evolved. However, the understanding of the development of the concept may be enriched by examining earlier formative influences. Several analysts in the area [see, e.g., Akers, 1997; S. Cohen, (1972) 1993; Lilly, Cullen, and Ball, 1995; Shoemaker, 1990; Shoham and Hoffman, 1991; Siegel, 1998] locate the origins of subculture theory in late-nineteenth-century Durkheimian anomie theory and, moreover, in anomie's "social strain" legacy, which retained popularity well after World War II. The sociological

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debate on "anomie"* and its relationship to the fomentation of deviant and subcultural behavior was spurred by Robert K. Merton's treatise of the subject in his 1938 paper "Social Structure and Anomie" (SSA). However, it is Émile Durkheim who is viewed as the progenitor of the sociological understanding and application of this concept [Clinard, 1964; Schacht, 1982; Siegel, 1998]. Durkheim first used the term *anomie* in his 1893 [1971] publication "The Division of Labour in Society" to explicate the negative impact increased role specialization and functional differentiation may have on industrialized societies.† Durkheim further elaborated the concept of anomie in his later work entitled *Suicide: A Study in Sociology* [(1897) 1951]. It was here that Durkheim explained how the state of normlessness typical of societies undergoing rapid and fundamental social change affects and leads to the escalation of deviant behavior [Clinard, 1964; Shoham and Hoffman, 1991]. In such times of crisis, a society loses its capacity to regulate the behavior of its members. The basic value and ideological blueprint that cements the *conscience collective* erodes and loses its significance. The decline in social regulation thus gives way to an incessant pursuit of self-interest and unrealistic aspirations.

The notion of ever-escalating, unlimited, and unrealistic aspirations is fundamental to Durkheim's anomie theory. Durkheim linked the increasing chasm between individual means and aspirations to the consequences of uncontrolled economic development [Clinard, 1964; Thompson, 1982]. When the spending power and standard of living of people increase to such an extent that they are able to realize previously unattainable dreams, they lose sight of their limitations and become engrossed in an interminable pursuit of new aspirations that arise when previous goals are met. In his discussion of

* Bierstedt [1981:462] comments that the term *anomie* gained widespread use in U.S. sociology in the 1930s, when English translations of Durkheim's work first started to appear in North America. Moreover, at this time, prominent American sociologists, including both Parsons [1937] in *The Structure of Social Action* and Merton [1934] in *The Division of Labor*, emphatically recorded Durkheim's contribution to sociology and ensured that the French sociologist was to occupy a seminal and enduring position at the pinnacle of the discipline. Here, Bierstedt also argues for the English use of the term, rather than its French counterpart. Bierstedt establishes that the word *anomy* has been featured consistently in English dictionaries, including Samuel Johnson's dictionary of 1755. Bierstedt [ibid.:462] goes so far as to argue that "there is no more warrant for using the French a*nomie* than there is for using the French *anarchie* in preference to "anarchy." One may safely claim, however, that Bierstedt's appeals have remained unheeded. Indeed, a brief scrutiny of some of the more recent works in the area [Agnew, 1992, 1995, 1997; Bernard, 1995; Chamblin and Cochran, 1995; Passas, 1995, 1997; Passas and Agnew, 1997; Rosenfeld and Messner, 1997] would reveal that contemporary authors have retained the usage of the French term *anomie*.

† Here Durkheim draws heavily from Comtian sociology. In *The Division of Labour in Society* [1893:100], Durkheim acknowledges Comte as the first social scientist to have recognized in the division of labor something more than a purely economic phenomenon, and something that has wide societal ramifications.

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"acute economic anomie,"* Durkheim argues that if economic progress and prosperity remain unchecked, they unleash a boundless and insatiable desire for the attainment of never-ending ambitions. A state of "relative deprivation," that is, disequilibrium between means and needs is created.† Goals become an end in themselves and provide a strong sense of frustration when some inevitably prove unreachable. Here, both society and the persons that comprise it are in a state of *anomie* and prone to various forms of deviancy, including self-destruction through suicide. Durkheim [(1897) 1951:256] puts this beautifully:

> From top to bottom of the ladder, greed is aroused without knowing where to find ultimate foothold. Nothing can calm it, since its goal is far beyond all it can attain. Reality seems valueless by comparison with the dreams of fevered imaginations; reality is therefore abandoned when it in turn becomes reality. A thirst arises for novelties, unfamiliar pleasures, nameless sensations, all of which lose their savour once known. Henceforth one has no strength to endure the least reverse.... The wise man, knowing how to enjoy achieved results without having constantly to replace them with others, finds in them an attachment to life in the hour of difficulty. But the man who has always pinned all his hopes on the future and lived with his eyes fixed upon it, has nothing in the past as a comfort against the present's afflictions, for the past was nothing to him but a series of hastily experienced stages. What blinded him to himself was his expectation always to find further on the happiness he had so far missed. Now he is stopped in his tracks; from now on nothing remains behind or ahead of him to fix his gaze upon. Weariness alone, moreover, is enough to bring disillusionment, for he cannot in the end escape the futility of an endless pursuit.

* In S*uicide,* Durkheim [(1897) 1951] distinguishes between acute and chronic economic anomie and acute and chronic domestic anomie. *Acute economic anomie* is principally a result of relative deprivation, that is, the discrepancy between means and goals (needs) arising in periods of sudden economic boom or depression. *Chronic economic anomie*, on the other hand, results from the prominence of economic activity over other areas of the social domain, leading to a gradual yet consistent erosion of the ability of social control agencies to exercise restraint on individual wants. The end result of both these forms of anomie is a boundless pursuit of needs, unhappiness, and suicide. Durkheim compared these anomic states to parallel crises in domestic circumstances. Thus *acute domestic anomie* refers to situations of such sudden changes on the domestic front, as, for example, widowhood, which leaves the surviving spouse unable to cope with the loss of a partner and thus prone to suicide. *Chronic domestic anomie* results from the increasing inability of such domestic regulatory mechanisms as, for instance, marriage to secure the proper balance between the means and needs of spouses [Thompson, 1982].

† Thompson [1982] postulates that Durkheim, contrary to the utilitarian, economic, and psychological theories of his time, did not ascribe to the view that human needs were determined by a person's psychophysiological makeup. Rather, human needs were culturally relative, socially constructed, and thus potentially endless. An effective external moral authority was required to ensure that these needs or desires remain in check.

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As Lukes [1973] contends, it was also in *Suicide* that Durkheim introduced the term *representations collective*—which I consider as a prototype of the subculture concept. Durkheim defined representations collective as states of the conscience collective different in nature from the states of individual or personal "conscience." For Durkheim, however, though part of the collective conscience, collective representations possess autonomous, sui generis characteristics, and are bound to the substratum of individuals from which they originate. Durkheim's term *representations collective* holds strong similarity to Milton Gordon's [(1947) 1997] "worlds within worlds" definition of subcultures. Like Durkheim's collective representations, Gordon's subcultures remain part of the wider enveloping milieu, even though they possess different worldviews, interests, practices, and so forth. The affinity between the two concepts does not end here. "Collective representations" play a crucial role in the structuring and development of identities or social selves. Individuals appropriate collective representations through participation in socially structured symbolic action [Nicolopoulou and Weintraub, 1998]. Going back to Johnston and Snow's [1998] subculture concept, much like Durkheim's representations collectives, we saw that the dimensions of shared practices, "common fates," shared social positions or situations, and patterns relations between subculturalists and between the latter and the wider society are requisite elements for an adequate conceptualization of subculture. Clearly then, here, in my view we see Durkheim anticipating the meanings attributed to the subculture by both postwar and more recent readers in subculture studies.

6.4 Anomie Theory Revitalized: Merton's Adaptations to Social Strain

Durkheim's anomie theory was further revitalized by the works of Robert K. Merton [1910–2003], which in turn inspired the cultural deviance perspective of subculture that remained dominant in the field until the rise of the CCCS (Birminham University's Centre for Contemporary Cultural Studies) in the United Kingdom in the 1970s. Merton's seminal and groundbreaking piece on anomie, "Social Structure and Anomie," as mentioned, was first published in 1938 and reprinted several times to date [Bierstedt, 1981]. Here, Merton attempts to explain how social processes may create the conditions necessary for the infringement of the rules governing social conduct. Merton argues against the notion that "biologically rooted impulses" cause deviant behavior. For Merton, deviance is the by-product of the pressure exerted by social structures "upon certain persons in the society to engage in non-conforming rather than conforming conduct" [Merton [(1938) 1968a:186]. Deviance is a relative process that manifests itself differently across temporal and spatial boundaries.

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Merton locates two structurally inherent factors that occupy central importance for the sociological analysis of the relativity of deviant behavior: (1) "culturally defined goals," which are deemed by all and sundry, irrespective of status and position, as legitimate and highly desirable goals to pursue; and (2) the means the social structure condones as legitimate avenues for the pursuit of culturally prescribed ends. Although the means considered expeditious for meeting cultural goals are shaped and constrained by institutionalized norms, social actors may adopt more technical and efficient mechanisms in their attempt to reach socially ascribed ambitions. The more such alternative means of goal pursuit reside outside the realm of social integration and control, the greater the risk of deviant behavior.

For Merton, the relationship between cultural goals and the institutionalized means presents wide-ranging and profound considerations. Indeed, he holds that it is the nature of this relationship that determines the character of the wider social structure. On the one hand, strong emphasis on the importance of particular goals without concern for institutionalized means for arriving at such goals—that is, a situation "where any means would justify the end"—creates a malintegrated culture. On the other hand, at the opposite end of this continuum of social types, Merton identifies a social structure where institutionally condoned procedures assume overriding importance; where societal members lose sight of the original goals and, instead, associated practices become an end in their own right. Although, here, social stability is guaranteed in the short term, the foundations for social development—namely, flexibility and adaptation to change—are foregone. Such societies become "ritualistic" and "neophobic" and bound to an all-consuming exaltation of tradition.

Merton argues that between these two extremes lay societies that manage to maintain some degree of equilibrium and integration between cultural goals and institutionalized means. It is such societies that Merton deems as integrated, relatively stable, yet changing societies. For the author, it is "disintegrated" social types that are anomic in nature. Merton maintains that in such societies,

> the technically most effective procedure [*for goal attainment*], whether legitimate or not[,] becomes typically preferred to institutionally prescribed conduct. As this process of attenuation continues, the society becomes unstable and there develops what Durkheim called "anomie" (or normlessness). [Merton, (1938) 1968a:189]

Turning his attention to American culture, Merton contends that with its "exaltation of the end," that is, an emphatic emphasis on monetary success goals and a disproportionate concern for institutionally prescribed means

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for reaching such goals, American culture approximates an anomic society. Merton [ibid.:190] is particularly lucid in this regard:

> In the American Dream there is no final stopping point. The measure of "monetary success" is conveniently indefinite and relative. At each income level, as H. F. Clark found, Americans want just about twenty-five per cent more (but of course this "just a bit more" continues to operate once it is obtained).

Apart from their implications for the wider social structure, Merton asserts that such cultural patterns have a lasting impact on the individuals constituting the society. However, the author contends that individuals holding different positions in the social structure respond and adapt differently to the dichotomy and strain between cultural goals and the legitimate means available for goal attainment. Merton posits a typology of modes of individual adaptation to this cultural strain ranging from conformity, to innovation, ritualism, retreatism, and rebellion. Merton contends that conformity, that is, the acceptance of both cultural goals and the institutionalized means society provides to achieve them, is the most common and widely diffused adaptation to the means-end disjuncture. For Merton, "conformity" is the "modal response" to social strain and is necessary to ensure social stability and continuity.

On the other hand, Merton holds that "innovation" occurs where an individual accepts cultural goals (or is engaged in an incessant pursuit to arrive at his or her aspirations) but rejects the institutionally accepted means for achieving them. Merton argues that innovation may be used to explain white-collar crime and cases of profit-seeking middle-class offenses but is more indicative of the resounding rates of deviant behavior in the lower social strata. He posits that the increasing tendency for criminal behavior among the poverty-stricken underclass is the result of an unforgiving class structure that promotes the value of financial wealth and monetary gain, on the one hand, yet provides differential access to the opportunity to reach such goals on the other:

> Of those located in the lower reaches of the social structure, the culture makes incompatible demands. On the one hand, they are asked to orient their conduct toward the prospect of large wealth—"Every man a king" … and on the other, they are largely denied effective opportunities to do so institutionally. [Merton, (1938) 1968a:200]

"Social ritualism," or the "scaling down of lofty cultural goals of great pecuniary success and rapid social mobility to the point where one's aspirations may be satisfied" [Merton, (1938)1968a:204], is another way of coping with the strain of living in an anomic society, according to Merton. The ritualist is distrustful and feels threatened by high aspirations. Lofty goals and overambition trigger frustration and fear. By scaling down his or her ambitions,

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the ritualist is reassured by the comfort of realizable achievements and the security of manageable goals. The author's elaboration of social ritualism also implies, however, that this curtailment of ambition is accompanied by a compulsive and habitual pursuit of institutional norms. For Merton, ritualism is the mode of adaptation of those "seeking a *private* escape from the dangers and frustrations which seem inherent in the competition for major cultural goals by abandoning these goals and clinging all the more closely to the safe routines and the institutional norms" [ibid.:205].

Merton maintains that while innovation is the most commonly exhibited adaptation of America's working class, given the closure of opportunity the latter experiences in its pursuit to reach mainstream cultural goals, ritualism is more typical of lower-middle-class America's response to social strain. Drawing on the findings of previous related works including, inter alia, Erickson [1946] and Davis and Havinghurst [1946], Merton argues that it is in the lower middle classes (where parents unremittingly encourage their children to internalize and uphold the dictates of convention, yet where at the same time the possibility of lofty achievement remains markedly less likely than for the upper middle classes) that this modal response is more pervasive:

> The strong disciplining for conformity with mores reduces the likelihood of Adaptation II and promotes the likelihood of Adaptation III. The severe training leads many to carry a heavy burden of anxiety. The socialisation patterns of the lower middle class thus promote the very character structure most predisposed toward ritualism. [Merton, (1938) 1968a:204]

The proclivity of a social stratum for a specific mode of adaptation does not imply that an individual pertaining to a particular class background may not oscillate from one adaptation to another—a facet of Merton's work on adaptations to social strain that is often overlooked. Merton holds, for example, that it is indeed possible for the compulsive ritualist to dramatically shed his or her unbridled passion for routine and spontaneously engage in illicit innovation. Although, on a macro level, it is possible to equate particular adaptive responses to strain with the idiosyncratic nature of each social stratum, for Merton, the individual's passage from one adaptation to another is expectable.

Merton holds that "retreatism," that is, the outright rejection of conventional goals and the means to achieve them, is the least common adaptation to social strain. Merton lists Nels Anderson's [1923] *The Hobo* and a host of other "social dropouts," including chronic alcoholics and those dependent on drugs, as typical retreatists:

> People who adapt (or maladapt) in this fashion are, strictly speaking, *in* the society but not *of* it. Sociologically, these constitute the true aliens. Not sharing the common frame of values, they can be included as members of the *society* (in distinction from the *population*) only in a fictional sense. [Merton, (1938) 1968a:207]

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Retreatism is most likely to arise in a situation where both mainstream goals and prescribed practices have been embraced without, however, the anticipated and much-sought-after level of success. The affective internalization of social mores and the conventional moral system impinges on one's capacity to resort to illicit and innovative solutions that provide avenues to achievement. Consequently, the person retreats to an esoteric plane of escapism where the pressures toward highly valued success goals are averted. Merton holds that although this mode of adaptation intrinsically implies a private process of negotiation with the outer social reality, it elicits unceremonial consternation from the leaders of conventional forces. The flight from reality is perceived as a threat to the social order. When the very essence of society is put into question, that is, when its value system and prescribed practices become no longer binding, and such "defiance" is haughtily flaunted, the sentinels of conventional morality indeed go for the proverbial jugular.* Merton puts this poignantly:

> In public and ceremonial life, this type of deviant behaviour is most heartily condemned by conventional representatives of the society. In contrast to the conformist, who keeps the wheels of society running, this deviant is a non-productive liability; in contrast to the innovator who is at least "smart" and actively striving, he sees no value in the success-goal which the culture prizes so highly; in contrast to the ritualist who conforms at least to the mores, he pays scant attention to the institutional practices. Nor does the society lightly accept these repudiations of its values. To do so would be to put these values into question. Those who have abandoned the quest for success are relentlessly pursued to their haunts by a society insistent upon having all its members orient themselves to success-striving. [ibid.:208]

In a direct reference to subculture in this work, although Merton does acknowledge the possibility that like-minded persons may come to experience and share a common sense of enterprise in deviant subcultures, for the author, retreatism remains by and large a private and inwardly directed form of deviance. Interestingly, however, Merton admits that indirectly the fictional prototype of the Chaplinesque retreatists so common and submitted to ridicule and disdain in popular culture reinforces the self-esteem and

* In his later works, Merton specifies that the "syndrome of retreatism," or *accidie*, is also the likely response to what Durkheim had earlier defined as "acute anomie," or an abrupt shift in the "familiar and accepted normative framework and in established social relations" brought about by sudden depression or prosperity. People who have undergone forced retirement or widowhood—"individuals who are exempt from a wide array of role obligations"—are likely candidates for retreatism:

> Both the widowed and the "retirants" have lost a major role and, in some measure experience a sense of isolation. Retreatism is manifested in nostalgia for the past and apathy in the present. Retreatists are even more reluctant to enter into new social relations with others than are those described as "alienated," with the result that they tend to continue in their apathetic condition. [Merton, (1957) 1968b:243]

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morale of those who have to march on the grueling road toward achievement in their everyday lives.

Unlike any other mode of adaptation to social strain and anomie, for Merton, "rebellion" is a potent source of social change and the root cause of structural modification. Rebellion arises when the ruling value blueprint and prescribed standards of behavior become arbitrary in nature and lose their legitimacy for those comprising the society. Rebellious subgroups (engaging in outward bound collective acts of deviance) aim to disgorge the prevalent deadlock in the social structure in an effort to establish an alternative form of society. In his later "Continuities" paper [(1957) 1968b], Merton emphasizes that rebellion should not be considered as intrinsically dysfunctional in nature. Rather, the rebel, for Merton, possesses and articulates the dawning of a new tomorrow:

> In the history of every society, presumably some of its culture heroes have been regarded as heroic precisely because they have had the courage and the vision to depart from norms then obtaining in the group. As we all know, the rebel, revolutionary, nonconformist, individualist, heretic or renegade of an earlier time is often the culture hero of today. [ibid.:237]

Merton argues that rebellion develops alongside a continuum that starts from individual dissatisfaction with established goals and institutional practices and moves to the recognition of the system as the effective barrier to the satisfaction of legitimized goals until finally the individual aligns him- or herself to alternative norms and values and similar others possessing the same worldviews. In his works with Alice Rossi on reference group theory [(1949) 1968], Merton throws light on the developmental nature of this "transvaluation" process. Like Durkheim, Merton holds that in modern societies individuals are in a state of "relative deprivation," that is, they continuously compare themselves to others with whom they might be in actual association, to those with whom they share the same social status, and to others outside their immediate circle or social category [Bierstedt, 1981:470]. Where individuals consider their life chances to be comparatively thwarted because of an ill-functioning social system, the stage is set for the process of what Merton and Rossi term "anticipatory socialisation," or the adaptation and conformity to norms of the group individuals aspire to belong to (out-group) and the abandonment of the norms of the they presently belong to (in-group).

As we also see in the forthcoming pages, Merton's conceptualizations of adaptation to strain, relative deprivation, reference group, and anticipatory socialization have had strong influence on the understanding and application of the subculture concept by later theorists, including most notably Albert K. Cohen and other postwar deviancy theorists. Indeed, as the following pages reveal, classic subculture theory in the form of A. K. Cohen's [1955] and

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Cloward and Ohlin's [1961] works drew directly from Merton's social strain theory; and hence Merton's pivotal place in the development of subculture theory cannot be disputed.

6.5 Subculture Theory in the Making: Albert Cohen and Postwar U.S. Deviancy Theory

Although (as we have seen) one may locate the origins of the term *subculture* elsewhere, scrutiny of the academic literature reveals that the notion of subculture gained prominence through the writings of U.S. postwar cultural deviance theorists. There is general agreement among various commentators on subculture studies [see, e.g., Shoham, 1964, 1968*; S. Cohen, (1972) 1993†; Pearson, 1994‡; Abbott, 1998] that Albert Cohen, Richard Cloward, and Lloyd Ohlin were the among the most central figures in this regard. A. Cohen, Cloward, and Ohlin viewed subcultures as backdrops for the negotiation of solutions to the problems that people (young working-class people in particular) face in their everyday interaction with a social milieu riddled with adversity. It is precisely the dissociation from tradition communal ties, coupled with the savage stratification of life chances and opportunities for self-advancement characteristic of modern urban society, that these authors, to differing degrees, discern as the primary mechanism for the adoption of deviant, fringe, and transgressional identities and consequently the development of delinquent subcultural formations. Within the cultural deviance perspective, subcultural practice is primarily an outward-bound form of behavior. Subcultural identities are formed through group processes, with little or no space for self-determination.

From the outset, it is also possible to locate the influence of the theories elaborated in the preceding pages on this particular approach. Stanley Cohen [(1972) 1993:iii], for example, describes cultural deviance subcultural theory as "the intellectual offspring of two oddly matched but conventional strands of American sociology—functionalist anomie theory and the Chicago School."

* Shoham compares the applicability of Cohen's and Cloward and Ohlin's theories for explaining processes related to norm and value conflict between mainstream Israeli culture and the Diaspora subculture to a series of rival yet homologous theories. Shoham concludes that the former proved to be of "greater significance to the [understanding] of the etiology of delinquent gang formation in Israel" [1968:74].

† Other theorists have also been acknowledged for important contributions to the development of cultural deviance model of subculture. Stanley Cohen, for example, in the preface to the third edition of his *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* [(1972) 1993], cites Downes's *The Delinquent Solution* [1966] as a model text of the cultural deviance tradition, which marked the successful exportation of U.S. subcultural theory to the United Kingdom.

‡ Pearson identifies Miller [1958], Short and Strodtbeck [1965], and Suttles [1968] as equally important authors in this regard.

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Similarly, while recognizing the differences inherent between cultural deviance subcultural theory and its forerunners in the anomie and the Chicago School's social ecology perspective,* Akers [1997:115] contends that "these theories share a common theme; namely that social order, stability and integration are conducive to conformity, while disorder and malintegration are conducive to crime and deviance." In the case of cultural deviance theorists, as we have already seen, the effects of disorder and malintegration in society are extended to include the formation of what are considered as essentially delinquent subcultures.

One should also point, however, to a fundamental difference between cultural deviance theory and Chicago School sociology. The latter undertook important ethnographic work on marginal or fringe micro cultures [in the form of, e.g., Anderson, 1923; Cressey, 1932; Whyte, 1943; Zorbaugh, 1929]. Yet these ethnographies were not framed within subculture theory or even within a broader theoretical framework, for that matter. In most of the Chicago School's work, fringe subgroups are often explained away simply as symptomatic of a wider social malaise that the Chicagoans termed "social disorganization." For example, Jenks [2005:67–68] comments that the exhaustive ethnographies of the Chicago School contained detailed realism but were essentially "a-social or non-sociological":

> In one sense the Chicago School had no theory of society greater than a theory of Chicago (called "The City"). Such megalithic and totalising ideas as "society" were left to the East Coast theorists like Parsons, who developed them in spades, often without the flimsiest empirical referent. The tradition of subcultures that stems from Chicago, then, is unashamedly micro in its approach, never looks at the bigger picture and is unfortunately ill-equipped

* The Chicago School (based at the University of Chicago in the United States) "was, in effect, American Sociology" and dominated the discipline after World War I until the mid-1930s with the emergence of such rival sociological schools of thought as those based at Harvard and Columbia [Smith, 1988:2]. The early Chicagoans, among them Robert Park and Ernest Burgess, drew heavily on plant and animal biology to explain urban society. Park and Burgess [(1925) 1967)] used the ecological concept of natural area to explain the different stages modern human societies undergo in the process of their evolution. Ecologists ascertain that plant life and other organisms undergo a process of invasion (where new species of plant life attempt to gain control of a piece of territory to grow and mature), domination (where the new species takes over the area or dominates it), and symbiosis (that is, where following a period of successive invasions, the environment stabilizes and accepts the inevitable presence of its new dominant organism, thus establishing equilibrium). Park also explained social interaction and change in terms of these concepts. He considered the community to be a superorganism, with each new "invading" social group going through a similar social process. He observed how consecutive immigration incursions in Chicago led to the development of differentiated communities, or "natural areas," that is, territories with distinct forms of community life, behavioral patterns, role definitions, and values. Burgess [(1925) 1967)] extended Park's application of the natural area concept to the study of human communities and argued that it comprises three fundamental elements: (1) the territorial or physical aspects of a community, (2) cultural traits derived from the community's values, and (3) sociopolitical arrangements resulting from the methods that the community accepts to solve conflict and unrest.

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> to level a critique at the social structure or the going order much beyond its own parish boundaries. [ibid.:68]

On the other hand, cultural deviance theorists such as A. K. Cohen could draw on the works of earlier anomie and strain theorists to interpret "deviant" subcultures. This becomes more evident with thorough scrutiny of Cohen's influential study *Delinquent Boys: The Culture of the Gang* [1955].

One may safely contend that Cohen's treatise of the notion of subculture in this volume constituted the first coherent and detailed discussion of the concept. Here, Cohen (emphatically drawing from Merton's social strain, reference group, and anticipatory socialization concepts) relates the formation of subcultures to processes of group identification. He purports that societal (or group) membership entails roles that demand vigorous allegiance to collectively upheld belief systems and defined patterns of action. The greater an individual values membership in the group (that is, any particular social category), the more weight one gives to the importance of subscribing to the group's normative behavioral patterns and values. The extent of one's conformity to prevalent group norms determines both the individual member's degree of acceptance by the group and the status, esteem, and respect that person holds within the group. On the other hand, deviation from role expectations and established values is met with repudiation, with the result that the dissenting person's status within the group is severely compromised.

Moreover, for Cohen, failure to comply with group standards of behavior and staunchly upheld ideologies also impacts negatively, at least temporarily, on the individual's socially constructed set of action-rationalizing mechanisms. Cohen attests that group membership necessitates identification with shared "frames of reference," that is, standards of behavior that determine what may be the acceptable or unacceptable solutions to day-to-day problems. Group consensus validates the "frame of reference which motivates and justifies our conduct" [A. K. Cohen, 1955:57] and engenders the sense of belonging one feels to one's reference group. If the individual is unable to associate with the group standards, that person undergoes an ephemeral period of oscillation from one value (and action) system to another, and from one reference group to another, until a group with a "frame of reference" more favorable to the adoption of (what the individual deems to be) more desirable solutions to problems of adjustment is identified:

> Should our problems be not capable of solution in ways acceptable to our [reference] groups and should they be sufficiently pressing, we are not so likely to strike out on our own as we are to shop around for a group with a different subculture, with a frame of reference we find more congenial. [ibid.:5]

Cohen holds that it is precisely this "realignment" of reference models that determines cultural innovation and the development of subcultures.

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Cultural innovation emerges when an individual or group (despite the strong pressures to conform to the "surrounding" culture) seeks and achieves membership in a group with different "frames of reference" that are perceived to be more agreeable to the dissenting individual's (or group's) situation:

> The emergence of these "group standards" of this shared frame of reference is the emergence of a new subculture. It is *cultural* because each actor's participation in this system of norms is influenced by his perception of the same norms in other actors. It is *subcultural* because the norms are shared only among those actors who stand somehow to profit from them and who find in one another a sympathetic moral climate within which these norms may come to function and persist. [A. K. Cohen 1955:65]

The individual's realignment to a subcultural formation is, then, according to Cohen, mitigated by problems of "status adjustment." Subcultures offer persons with shared problems of status adjustment a collective or group, albeit "magical" and "imaginary," solution to their predicament. The subculture possesses values, norms, behavior standards, and status criteria that are attuned to the characteristics and codes of conduct of established and prospective members, and thus they secure a strong sense of belonging. United by common problems, shared solutions, and a newly found value blueprint, which may often run counter to the prevalent or wider culture, the subculture provides shelter from cultural estrangement and isolation. However, the solutions that subcultures provide remain at the ideological level and do not impact the real conditions from which they arise and to which they attempt to respond. According to Cohen, male working-class adolescents are particularly susceptible to association with delinquent subcultures because they experience a double-binding source of status frustration: frustration emanating (1) from closure to middle-class success goals and (2) from the contradiction (or what Cohen terms "role ambiguity") arising from adolescent status. The delinquency of young working-class men, taking the form of "non-utilitarian," "malicious," and "negativistic" behavior, is thus a response to this status frustration [1955:25].

The ability of the subculture to sustain this spirit of solidarity determines its longevity and the commitment of its affiliates. Moreover, the subculture also thrives from its hostility toward and from the wider culture. Its raison d'être is secured through the mainstream's repulsion and challenged with increasing tolerance for the value system of the group:

> The new subculture of the community of innovators comes to include hostile and contemptuous images of those groups whose enmity they have earned. Indeed this repudiation of outsiders, necessary in order to protect oneself from feeling concerned about what they may think, may go so far as to make

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> non-conformity with the expectations of the outsiders a positive criterion of status within the group. Certain kinds of conduct, that is, become reputable precisely because they are considered disreputable in the eyes of the group. [A. K. Cohen, 1955:68]

In this extract, Cohen makes reference to two processes, or defense mechanisms, that help explain the nature of the relationship of subcultural members to the out-group, namely, "reaction formation" and "protective provocation." The former implies that a subculturalist legitimizes his or her pursuit of subcultural behavior by inverting mainstream moral standards and upholding modes of conduct that are repudiated by the conventional society. Similarly, protective provocation refers to the process whereby in an attempt to overcome the resistance and guilt feelings associated with the pursuit of a highly desirable form of behavior, which may be perceived to be harmful to significant others, we engage in conduct that is anticipated to elicit hostility from the latter. Upon this hostile reaction, we absolve ourselves of guilt and are free to engage in the legitimized form of action. Subcultures revel in outsiders' hostile responses. It is this hostility from the common enmity that protects the subculture and consequently the subculturalist from internal misgivings on the pursuit of nonconventional lifestyles.

The fusion of Merton's strain and reference group theory in Cohen's work found favor in Cloward and Ohlin's [1961] "differential opportunity" theory. Like Cohen, these authors argue that working-class delinquent subcultures act as "collective solutions" to the inaccessibility of high-status rewards or success goals. Scaling down their aspirations, working-class youth gravitate toward achieving higher status within the working class itself. Legitimate opportunities for status advancement within the working class, however, are few and far between. This closure produces pressures toward delinquency.[*] Boys from racial and ethnic minorities, especially those in the lower-class neighborhoods of large urban centers, are most likely to be deprived of legitimate educational and occupational opportunities. Therefore, high rates of delinquency are to be expected of them. The kind of subculture or gang activity they adopt depends on the nature of the illegitimate opportunities available to them. These opportunities are determined by the social organization of the neighborhoods or the areas of the city where they are raised. Whereas Cohen saw a single delinquent subculture, Cloward and Ohlin envisage different types of overlapping delinquent subcultural responses.[†]

[*] In contrast, Miller [1958] argues that delinquent subcultures do not arise as a response to the closure of middle-class goals. Rather, working-class delinquent subcultures that valorize "focal concerns" such as toughness, smartness, fate, excitement, autonomy, and trouble validate values pertaining to the wider or "parent" working class.

[†] These range from "criminal" to "retreatist," to violent "conflict" gang behavior.

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6.6 Early Subculture Theory: An Appraisal

Despite Cloward and Ohlin's refinement of A. K. Cohen's work, various authors [see, e.g., Bloch and Niederhoffer, 1958; Brake, 1985; Clarke et al., (1975) 2000; S. Cohen, (1972) 1993; Downes and Rock, 1988; Heidensohn, 1989; Hirschi, 1969; Hodkinson, 2002; Jenks, 2005; Matza, 1964; Matza and Sykes, 1961; Patrick, 1973; Valentine, Skelton, and Chambers, 1998; Wilensky and Lebeaux, 1958] find fault with these early forays in subculture studies. For example, John Clarke and his colleagues [(1975) 2000:28–29] contend that despite placing delinquent subcultures within a class-based interpretative framework, the main point of departure of Albert Cohen's work, namely, the conception of widespread consensus on what constitutes normative values, may be charged with a naivety characteristic of American subculture theory. Cohen does not take into account the essentially conflicting relationship between the diverse constellations of value systems, lifestyles, and aspirations endemic to modern society. One has to struggle to find any sort of critical debate on structural conflict and power relations in Albert Cohen's work. It is thus with justification that the British sociologist S. Cohen asserts that "the [early subcultural] theories explained how and why kids would kick a machine that did not pay; no one asked how the machine was rigged in the first place" [(1972) 1993:vi]. Similarly, for MacDonald [2001:36] the worldview expounded by these early subculture theorists is "ahistorical" and rests on a conformity versus nonconformity dichotomy and ignores the wider issues of class conflict and class struggle.

This weak critical orientation and intellectual naïveté are not the only accusations early subculture theory has had to deal with. It has been accused of lacking empirical support [Bloch and Niederhoffer, 1958], engaging in speculation [Macdonald, 2001], and being anchored on an individualistic, psychogenic bias, as epitomized by its attempt to explain structural contradictions through such reductive psychosocial processes as "status frustration" or "reaction formation" [S. Cohen, (1972) 1993].

The commonly alleged reductionism of early subculture theory is also said to emerge in its equating of subcultural responses with male working-class youth. In this respect, A. Cohen's and Cloward and Ohlin's work is criticized for ignoring important gender issues [Macdonald, 2001] and for associating delinquent subcultures exclusively with the working class while ignoring middle-class delinquent subcultures [Downes and Rock, 1982; Heidensohn, 1989; Hirschi, 1969; Matza and Sykes, 1961]. Matza and Sykes [1961], for example, argue that both working-class and middle-class youth possess "subterranean values." However, whereas in the case of middle-class youth these are expressed (as expected and condoned by society) in the world of leisure, working-class youth are less predictable and vent their subterranean values outside normative prescriptions.

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Other works [Brake, 1985; Leonard, 1997] put these early subculture theories to task for problematizing youth subcultures by inexorably connecting the latter (and youth in general) with delinquent, antisocial behavior. Consequently, "one immediately marginalizes its [the subculture's] position and undermines its importance as legitimate expression" [Leonard, 1997:241]. David Matza [1964:60] questions the idea of delinquent subcultures as oppositional to the conventional order that permeates the works of both A. K. Cohen and Cloward and Ohlin. For Matza, delinquent subcultures are "encircled by the conventional order" and "subjected to persistent infiltration by the agents of convention and persistent modification by the canons of convention" [ibid.]. As a result, delinquent subcultures depend upon and remain integrated within the conventional order. According to Matza, all this renders Albert Cohen's and Cloward and Ohlin's notion of subculturalists highly committed to delinquent behavior unsound. First, for Matza, Cohen's and Cloward and Ohlin's notions (like most "positivist criminology") are deterministic and divest the dimension of will or choice from the undertaking of criminal or delinquent behavior. Second, they also downplays the interplay or drift between convention and transgression. The two are not essentially exclusive of each other. In Matza's view [1964:28], delinquents shift or "drift" between the two:

> The delinquent is casually, intermittently, and transiently immersed in a pattern of illegal action. His investment of affect in the delinquent enterprise is sufficient so as to allow an eliciting of prestige and satisfaction but not so large as to "become more less unavailable for other lines of action." In point of fact the delinquent is available even during the period of optimum involvement for many lines of legal and conventional action. Not only is he available but at a moment's reflection tells us that, concomitant with his illegal involvement, he actively participates in a wide variety of conventional activity.... [T]he delinquent *transiently* exists in a limbo between convention and crime, responding in turn to the demands of each, flirting now with one, now the other, but postponing commitment, evading decision. Thus, he drifts between criminal and conventional action.

6.7 Subculture: A Renaissance?

One must acknowledge, however, that to its merit and despite its flaws, early subcultural theory, particularly in the guise of Albert Cohen's contribution to the area, provided the first cogent attempt at explaining subcultures, why these emerge, why people engage in subcultural behavior, and the needs subcultural identification caters for. Indeed, subculture theory developed considerably since A. K. Cohen's *Delinquent Boys* [1955]. Yet, one has to admit that the cultural deviance perspective has left an indelible mark on the subculture

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concept. It has spurred, if not shaped, the debate on subcultures within sociology, from the neo-Marxist take on the subject as epitomized by the CCCS's studies on oppositional-resistant subcultures in the 1970s to more recent poststructuralist or postmodernist works. Moreover, despite this corpus of theory's failings, Cohen's refinements of Durkheim's and Merton's early works and various threads of his own subculture concept, including most notably how subcultural affiliation necessitates the realignment of reference models and the link between the integration of shared frames of reference and subcultural status, provide compelling theoretical tools for the understanding of how status hierarchies in various subcultures are structured and determined. Although the critique leveled against early subculture theory is watertight in many respects, one should not discount the possibility of using theoretical elaborations extant to it to explain various social dimensions of contemporary subcultures. We have already alluded to subculture theory's recent renewal in this chapter's introduction. In conclusion to this work, it is, however, opportune to examine some of the major claims and works attesting to the subculture concept's newly found favor.

Weinzierl and Muggleton [2004:19], for example, claim that rather than disappearing in hyperreality, as postmodern subculture theory proclaims, the forces propelling subcultural identities have mutated into "disputes over tastes and sensibilities" in a stratified global economy where social groups battle over scarce economic resources. Such power differentials as class, gender, and ethnicity determine accessibility to translocally mediated subcultural styles. Similarly, Böse [2004] contends that class and race are still important social reference points in the creation of subcultural identities and that liberal discourses on lifestyle choices permeated by cultural hybridity and diversity should not divest the importance of accounting for the otherness and difference that still exist in society. Thus here, in both preceding cases, while some refinement on early subculture theory is indeed presented, basic elements of classic subculture theory (e.g., the notion of subcultural identity), though perhaps worded differently from the works of the theory's progenitors, are retained.

Similarly, and perhaps more markedly, Hodkinson [2004] presents us with a strong case for the retained usage of the subculture concept. Hodkinson's convictions in this regard stem from his conclusions that "subcultural substance" persists today even in the wake of virtually mediated, translocal cultures. In his paper on Internet use in goth subculture [2004], he argues that while the Internet has increased cultural fluidity in some respects, online communication networks also enhance the boundaries between distinct cultural groupings. This is evidenced by how Internet use has heightened the distinctiveness, identity, commitment, and autonomy of the translocal goth scene. The Internet combines both widely used mass media forms and a plethora of "niche, micro media" such as specialist, specific music- or

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lifestyle-oriented Web sites and discussion boards or forums. The Internet stimulates a more in-depth pursuit of specialist interests and thus reinforces commitment, distinction, and autonomy of the microculture over the medium of virtual space. Subcultural knowledge, friendship networks, and commitment are intensified. In some way resounding A. K. Cohen's work on "protective provocation," for Hodkinson, the niche nature of these virtual subcultural spaces further protects the subculture from outsiders and acts similarly to the insulating effect of specialist venues, clubs, gigs, and other activities.

Thus, for the author, the subculture concept still retains relevance to the process of explaining the various facets of contemporary youth cultures. Hodkinson [2002:23] notes that despite the validity of some recent work in the area, the diffuse number of concepts forwarded as potential replacements for the notion of subculture (from club culture to post-subculture and neo-tribe) and the inability of several of these concepts' proponents to explain how their preferred terminus precisely differs from others render the task of finding a suitable alternative to subculture very challenging:

> The imprecise way in which subculture has sometimes been used is certainly a cause for concern, but the current enthusiasm for coining more and more alternatives seems liable only to further complicate things. More importantly, perhaps, a number of the individual explanations, because of the range of substantive and fluid groupings they seek to include under a single term, are themselves unclear. [ibid.:23–24]

For Hodkinson, what is required is "a reworking" of the notion of subculture to take into account new forms of "subcultural substance" while remaining grounded on the articulations that forged the concept. Hodkinson contends that the contemporary youth culture domain contains bounded amalgams "of distinctive style, identity, values and practices" supported by a translocal infrastructure—elements of subcultural substance that do not require a new concept or ideal type to be explained. Rather, what it requisite is the refinement of the notion of subculture—a process that removes the problematic aspects of the concept and allows for the lessons gleaned from more recent work to be integrated within it. More specifically, for Hodkinson this may be achieved by rupturing the concept's ties to normative/deviant, status adjustment/problem solving, and resistance/oppositionality dyads and "replacing these specific criteria with the general defining theme of cultural substance … broken down into the four indicative criteria of *identity*, *commitment*, *consistent distinctiveness* and *autonomy*" [ibid.:29]:

> Contrary to the implications of Chicago and Birmingham versions of subculture, participation in the goth scene did not appear to entail the same 'problem-solving' function for all members and neither did it signify

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> any specific or all-important subversion of consumer culture. The style encapsulates significant elements of diversity and dynamism, its boundaries were not absolute, and levels of commitment varied from one individual to another. Furthermore, rather than owing itself entirely to the automatic gravitation or spontaneous creative practices of participants, the goth scene's initial construction and subsequent survival rested upon external and internal networks of information and organisation, often in the form of media and commerce. But in spite of overlaps and complexities, the initial temptation to describe Goths using a term such as *neo-tribe* or *lifestyle* was gradually tempered by the realisation that such a move would have over-inflated the diversity and instability of their grouping. Crucially, fluidity and substance are not matters of binary opposition, but of degree. In this particular case, the observation that the goth scene involved elements of movement, overlap and change does not somehow obfuscate the remarkable levels of commitment, identity, distinctiveness and autonomy which were evident. [ibid.]

The cultural fluidity and hybridity present today have rendered the description and analysis of subcultural life-worlds through the binaries of old paradigms problematic. However, in spite of this partial reality, clearly distinct, insulated, and bounded subcultural groupings with their own specialist, niche forms of knowledge, friendship networks, and distinctive practices and codes abound in today's cultural landscape. In other words, their subcultural substance persists. The persistence of such clearly bounded subcultural forms evidences this, and thus "subculture," albeit with the refinements explained in this chapter, remains a useful and purposeful analytic tool, one not much distanced from the way in which the concept's progenitors in criminology and the sociology of deviance conceived it to be.

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Anthropologies of Domestic Violence
Studying Crime in Situ

7

MADELAINE ADELMAN

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7.1 Introduction

Anthropologists have been studying crime for at least a century [Rafter, 1992, 1996, 2005; Schneider and Schneider, 2008]. How they have been doing so is the focus of this chapter. At the center of the anthropological approach to crime is the idea that the meanings and manifestations of crime are constituted as part of the social construction and regulation of identity and power, as well as the idea that claims for justice have always been preshaped by cultural contexts and transformed by social actors and their interactions with such institutions as courts. "Rather than treating crime as a fact of human pathology, anthropologists, no matter how horrific human behaviors have become, have looked beyond (and behind) the criminal category, finding its power in what it does not reveal or create" [Parnell, 2003:15]. The discipline of anthropology

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offers those who study crime a framework with which to produce historically contextualized, in-depth understandings of crime and culture. Here I concentrate on anthropological studies of the crime of domestic violence.

How can anthropology inform, and perhaps transform, the study of such crimes as domestic violence? The first part of this chapter briefly describes what is meant here by anthropology and then reviews how anthropology has studied domestic violence, tracing five stages or types of knowledge production. The second part of the chapter highlights anthropologists' most recent contributions to the study of domestic violence and provide examples of these promising approaches. This chapter suggests that anthropological approaches can complement, as well as critique, extant studies of domestic violence by drawing scholarly and policy attention to inquires based on meaning and experience, historical and cultural context, comparison, and global connections. As such, anthropological studies of domestic violence provide an understanding of crime in situ. In doing so, domestic violence may be understood, at least in part, as a structural and material effect of common ideologies and practices, rather than only as a result of individualized deviancy.

7.2 What Is Anthropology?

Every discipline is associated with a set of epistemological frameworks, methodological approaches, and theoretical explanations. "These agreed upon components produce a set of questions that are possible to ask, a toolkit that researchers draw from in order to answer those questions, and criteria with which they judge the results. Scholarly disciplines constitute a way of approaching and understanding the world" [Elman and Adelman, n.d.]. At the same time, by the very nature of scholarly inquiry, no discipline is wholly unified or stable, and its intra-disciplinary as well as its interdisciplinary debates are the stuff of academic life. Anthropology is no different. Indeed, it is perhaps more accurate to consider the existence of "anthropologies," in terms both of change in the discipline over time, and of competing schools of thought in any given time period.

Yet, putting these distinctions aside, what binds the wide-ranging discipline of anthropology is its holistic and empirical approach to the study of culture [Peacock, 2001; also see Kuper, 1999; Stocking, 1983]. What defines an anthropological approach to the study of culture is "observing a society as a whole, to see how each element of that society fits together, or is meaningful in terms of, other such elements[, and] examining each society in relation to others, to find similarities and differences and account for them" [Barnard, 2000:6]. As is well known across disciplines, anthropologists refer to the theory and practice of this approach to the study of culture as *ethnography.* To be sure, disciplines cognate to anthropology have adopted and adapted the

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notion of ethnographic fieldwork, yet no other discipline requires anthropological fieldwork of its students. As Russell Bernard has noted, "All participant observation is fieldwork, but not all fieldwork is participant observation" [1994:137 in Wolcott, 2005:81].

Notwithstanding internal debates regarding the validity, ethical dilemmas, and methodological challenges associated with ethnography, on the one hand, and the possibilities and limitations of "writing culture" or "writing against culture," on the other, anthropological fieldwork "requires being there, standing within one's subject, learning through sensation as well as mindfulness. The combination creates a unique vantage point from which to write about social reality" [Kane, 2003:204]. Long-term immersion in a place, coupled with the discipline's catholic view of what qualify as data, allows the anthropological ethnographer to produce holistic, empirical-based knowledge that explores meaning and experience, historical and cultural context, comparison, and global connections.

7.3 Anthropological Frameworks for Domestic Violence

We begin here with a broad overview of the various ways anthropologists have studied domestic violence, followed by promising examples thereof that highlight how insights into meaning and experience, historical and cultural context, comparison, and global connections contribute to the study of domestic violence. Anthropologists have produced knowledge about domestic violence in five distinct but related ways, analyzed as follows: invisible, indirect, inductive, intentional, and international. These five approaches are primarily, but not exclusively, in chronological order.

7.3.1 Invisible

Early anthropology looked to biological and environmental variations among persons as explanations for crimes, including wife beating, but few anthropologists commented analytically on men's violence against women in the discipline's classic ethnographies. However, clues about domestic violence can be read into such ethnographies as those by Evans-Pritchard [1940], Turnbull [1961], Turner [1967], or Barth [1969], which contain references to the management of marital disputes over adultery, the use of witchcraft by women to effect punishment, or the organization of gendered kinship systems of hierarchy, obligation, and reciprocity. Other anthropologists, who study law and legal processes, have mentioned the use of unacceptable levels of violence against spouses who fail to conform to gendered expectations of behavior as a common motivation for pursuing local forms of dispute resolution [e.g., Bohannan, 1960; Gibbs, 1963, 1969].

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The relative invisibility or decentering of domestic violence against women in these early ethnographies is not surprising, given the paucity of discourse on the topic in the universities (or communities) where these scholars trained or in the fields in which they conducted their research. Still, their holistic approach to everyday life and the anthropological foregrounding of the central place of kinship, gender, and power in the study of culture created the ethnographic space for the later development of the anthropology of women, which sought to compare cross-culturally the status of women and to explain sexual inequality, including men's domination of women [Safilios-Rothschild, 1969; Schlegel, 1972; Rosaldo and Lamphere, 1974; Friedl, 1975; Reiter, 1975; Fluehr-Lobban, 1976; Quinn, 1977; Sanday, 1981; for overviews, see also Moore, 1988; Mascia-Lees and Black, 2000).

7.3.2 Indirect

In 1984 the journal *Current Anthropology* hosted a brief exchange between Gerald Erchak [1984] and James Gibbs Jr. [1984] in which the former lamented that "although spouse abuse is a major and constant concern in the United States, cultural anthropologists have had little to say on the topic" [Erchak, 1984:331], and he urged members of the discipline to conduct ethnographic research on wife beating, particularly if that meant anthropologists would be able to explain its cross-cultural presence as well as its absence. Anthropology filled the silence around domestic violence, moving from relative invisibility to indirect studies in the 1980s. It was at this point when researchers, inspired by changes beyond the academy, and feminism in particular, began to reanalyze their own and others' ethnographic fieldnotes.

David Levinson [1989], for example, conducted a secondary analysis of the Human Relations Area Files. In his review of the database, Levinson analyzed family violence in 90 non-Western societies. To do so, he included various family forms as well as a variety of types of violence (e.g., physical punishment of children, husband beating, sibling violence, and wife beating). Levinson located husband beating in 27% of 90 societies analyzed; however, it was rarely considered culturally appropriate. His overall theoretical conclusion is that beating and battery are means men use to maintain control over women; in addition, wife beating and battering are universal but vary from infrequent to regular occurrence and from no social response to full intervention. Levinson suggested that four sets of factors are the strongest predictors of frequent wife beating: gendered economic inequality, the social acceptance of violent conflict resolution in general, male domestic authority, and restricted divorce for women.

A few years later, a group of anthropologists reanalyzed their ethnographic data to produce anthropology's next ethnological collection on wife beating and battering [Counts, Brown, and Campbell, (1992) 1999]. The *Sanctions*

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and Sanctuary project, inspired by anthropologist Dorothy Ayers Counts's new awareness of wife beating and wife battering as a problem in Papua New Guinea, had a group of ethnographers return to their original data about the wife beating and battering they had observed during fieldwork but had not written up. The editors of the collection distinguished between wife beating and wife battering, defining wife beating as physical aggression perpetrated by a husband against his wife that is considered acceptable by some members of culture; in this way, it is considered unremarkable because of its frequency. In contrast, wife battering was defined as a pattern of aggression often accompanied by nonviolent forms of coercion that some people in the culture consider to be abusive; wife battering can result in serious harm or death.

During this period of indirect research, anthropologists began to rethink their fieldwork. This approach overlapped to some extent with those who inductively identified domestic violence–related data and others who began to intentionally design studies that had domestic violence at the center of their data collection and analysis.

7.3.3 Inductive

Anthropologists searching for ways to explain sexual inequality, or identity and violence more generally, inductively identified men's use of violence against women as a productive area of inquiry from their own and others' ethnographic experiences. For example, in Bette Denich's study of sex roles and family organization in the Balkans [1974:251–52], she demonstrates how "agnatic solidarity requires control over … anomalous household members" (i.e., unrelated in-married women) and concludes that "coercion is necessary to reconcile the opposition between women's individual interests and the requirements for group survival … male domination takes the forms of ritualized female deference and direct physical punishments for violating the rules of submission." Nancy Scheper-Hughes's ethnography [1992:116], set in Brazil, includes a handful of accounts of men's domination through violence. Lourdes, a poor domestic worker, relates the following story about her bosses, Fatima and Seu Teto:

> When Seu Teto came home that night and the maid told him that Fatima had again refused to share any of the bed with me, he really blew his stack. He grabbed Fatima by the shoulder and shook her like a three-year-old, saying, "Didn't I tell you that I'm the one who runs this place?" Fatima began to cry, and she begged her husband to lower his voice, which was carrying into the street outside, but the more she pleaded with him, the louder he yelled. In the midst of all this confusion Fatima's mother and father arrived. Seu Teto stopped screaming, and Dona Rita told her daughter that her husband was right and that as long as she was living in his household, she had to follow her husband's orders.

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Others have similarly come across domestic violence during their fieldwork and located it within their larger projects on, for example, local and intimate experiences of state power [Lancaster, 1992]. Working in Nicaragua, Lancaster demonstrates how the politics of marriage is tied to the state [see also Alonso, 1995; Hirsch, 1998]. He also begins to raise methodological concerns about anthropologists' awareness of wife beating in the field. Lancaster's ethnography constitutes a turning point in the anthropology of domestic violence; after it came those studies intentionally designed around the topic.

7.3.4 Intentional

The intentional study of domestic violence by anthropologists began primarily in the 1990s, paralleling the institutionalization of domestic violence as a social problem and the explosion of research on domestic violence in other relevant fields, including sociology, criminology, history, psychology, law, and social work. Instead of ignoring domestic violence, retrospectively reflecting on it, or inductively revealing it, intentional research brings domestic violence to the center of analytic, methodological, and theoretical concerns for the ethnographer. During this period, Harvey and Gow [1994] offered a unique collection of anthropological and cultural studies research on domestic violence that considers the role of language, representation, and popular culture in the construction of sexuality and violence, with an emphasis on the politics of ethnography.

Within this framework, graduate students and established scholars began to secure funding for extensive fieldwork on and began publishing historically and culturally contextualized studies of domestic violence in locales ranging from Senegal [London, 2000] and Kazakhstan [Snajdr, 2005, 2007] to the Caribbean [Lazarus-Black, 2007] and the Middle East [Adelman, 2000, 2003]. This research typically blends theoretical questions related to gender, violence, colonialism, and the state with the specificity of substantive regional or area studies.

Taken as a whole, the intentional anthropological research on domestic violence brings local nuance and contextual understanding to universal claims regarding wife beating. Notably, few anthropologists have studied domestic violence in the United States [but see Merry, 2000, on Hawaii], with the overwhelming majority of anthropologists trained in the United States conducting fieldwork elsewhere. Ultimately, this body of research may provide opportunities for rich global-level comparisons.

7.3.5 International

The final and most recent anthropological approach to the study of domestic violence is international in scope. By *international,* I am referring to two

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sets of related areas of inquiry. The first is comparative in nature and returns the discipline in some ways to the earlier ethnological approach to domestic violence, which attempted to draw generalizable conclusions from multiple societies [Hajjar, 2004]. The second is focused primarily on the global anti–gender violence social movement. Anthropologists, for example, analyze how domestic violence knowledge and practices cross state borders, shaped in large part by new forms of global legality [Merry, 2006]. Both areas of international inquiry are made possible by the growth of local and global networks formed to address domestic violence and by the concomitant growth of the international women's human rights framework.

7.4 Anthropologies of Domestic Violence

Anthropologists who have published ethnographic studies of domestic violence within the last decade provide those outside of the discipline a range of models to consider. The four case studies reviewed in this section also outline the significant contributions anthropologists make to the study of domestic violence in terms of their attention to meaning and experience, historical and cultural context, comparison, and global connections. Although each case study may contribute in more than one area, for each case study here, just one contribution is highlighted.

7.4.1 Meaning and Experience

Domestic violence has not always been identified as an actionable crime, and women have not always had access to state protection from intimate partner violence. In other words, the meaning of domestic violence is contingent. In colonial Massachusetts, for example, Puritans enacted laws against intolerable levels of wife beating and "unnatural severity" toward children [Pleck, 1987]. At that time, neighborly surveillance of each other's homes was a cultural norm. By the end of the seventeenth century, the rise of new cultural norms regarding familial privacy terminated this practice [ibid.].

The history of the contemporary criminalization of domestic violence begins in the early 1970s, primarily in the United States and the United Kingdom, when feminists and other activists renewed their commitment to eradicating intolerable levels of what they labeled as patriarchal male domination, expressed through family-based violence [Pleck, 1987]. In their efforts to address domestic violence, the battered woman's movement had two primary objectives: safety for battered women and their children, and accountability for men who batter. Toward those objectives, the movement established shelters, formed consciousness-raising groups, shamed and/or rejected individual men who were violent toward women, and tried to raise

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nonviolent boys. In addition to these individualized and collective efforts, the battered woman's movement also sought to reveal hidden forms of privatized violence by securing state-based protection from violent men for women and their children [Schechter, 1982; Adelman and Morgan, 2006]. The criminalization of certain forms of domestic violence, primarily those causing physical injuries, with access to orders of protection, was the direct result of the successful struggle to garner equal protection under the law for battered women and their children in the United States [Schneider, 2000].

However, the struggle for equal protection under the law was not limited to the United States. By the early 1990s, the U.S. juridical-criminalization model was adopted as an international standard, carried in large part by the global anti–gender violence movement [Adelman, 2005]. The anti–gender violence movement codified a working definition of violence against women, created procedural means to measure levels of gender violence, and moved to hold states accountable for its eradication through such transnational monitoring bodies as the United Nations or the Council of Europe. This juridical-criminalization model has become the primary mode of intervention into domestic violence, and the one gaining greatest force, speed, and funding globally.

As a result, in countries where domestic violence has been transformed from a commonplace practice of marriage to a social problem mandating state intervention, police officers, lawyers, legal advocates, judges, probation officers, and other agents of the criminal justice and legal systems have become the primary caretakers of criminalized forms of domestic violence. Domestic violence is defined in multiple, sometimes contradictory layers by this variety of stakeholders—federal and state legislators, law enforcement officers, national and local activists, social service bureaucrats, victims, perpetrators, and witnesses—who oftentimes employ their own distinct idiom to do so.

Obtaining and maintaining support for state-based protection has continually required culturally valued and persuasive evidence. Typically, this has been understood as studies of the type and frequency of a set of behaviors deemed by the state to constitute the crime of domestic violence. Despite their utility, the resulting overreliance on large-scale surveys to research violence against women is limited in several ways. These studies typically assume and narrow the meaning of domestic violence to criminalized and thus isolated, physically violent events such as verifiable acts of assault. Furthermore, as Kathleen Ferraro notes, these national surveys rely on self-reporting of "socially unacceptable, criminal conduct" and do not measure the "most extreme form of intimate violence, homicide" [2001: 139–40]. Aside from a priori fixing of the meaning of domestic violence and effacing of the processual dynamic of domestic violence, this approach also results in underreporting by respondents who may exclude, minimize, deny, and justify various forms

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of abuse. Respondents also may have varying abilities or willingness to discuss their victimization with interviewers because of a combination of fear, lack of trust, or shame.

Toward the objective of effective collection of local domestic violence data, the World Health Organization recently produced and distributed a manual "to improve the quality, quantity, and comparability of international data on [gendered] physical and sexual abuse" [Ellsberg and Heise, 2005]. The manual contains suggestions for both quantitative and qualitative data collection methods that can be used by local social change agents to conduct effective research to influence policy. The authors of the manual call for "more cross-cultural research … to reveal how societal norms and institutions promote or discourage violent behavior" [ibid.:27].

Mindie Lazarus-Black's ethnography [2007] is a model of such locally relevant, cross-cultural research in that she reveals how legal processes, rather than just court outcomes, create a gap between the ideals of the new domestic violence law and the law as experienced. Rather than speculate based on quantitative analysis of court outcomes as to why individual women fail in their pursuit of protection orders, Lazarus-Black conducts a detailed, in-depth observation of the everyday legal processes women encounter in their efforts to engage the law. Her analysis of the implementation of a new anti–domestic violence law in the Caribbean demonstrates not only how meaning and experience vary by time and place but also how the varied meaning and experience of domestic violence law creates legal failure.

Lazarus-Black's ethnography is based on her extensive fieldwork in Trinidad and Tobago, which included archival research, courtroom observations, and interviews with litigants and lawyers. "It is the first in-depth ethnographic investigation of domestic violence law in the English-speaking Caribbean" [Lazarus-Black, 2007:5]. She opens the ethnography by unpacking a local domestic violence homicide that occurred in 1990, after which the husband, Richard Daniel, who had murdered his wife, Ramdaye, ultimately pleaded guilty to and was convicted of manslaughter by a judge who, understanding the husband's predicament, sentenced Richard to 15 years in prison, helping him avoid a life sentence. Soon after Ramdaye's murder, "Trinidad and Tobago became the first nation in the English-speaking Caribbean to prohibit by separate legislation domestic violence" [ibid.:2]. Lazarus-Black tells the story of how the law was crafted according to both historically relevant local conditions and the emergence of global discourse on human rights. She then turns to a quantitative analysis of court records, which indicate that a low percentage of orders of protection submitted to the court are granted to applicants. She also offers a qualitative analysis of courtroom observations and interviews with litigants and lawyers in order to document how women and men have used the court to seek protection orders. In doing this, she also builds a systematic record of court "inputs"

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and "outcomes" for future comparative analysis. Overall, this portion of her ethnography makes a critical contribution to the study of domestic violence. However, it is the remaining components of her ethnography where she explores the meaning and experience of domestic violence law in the Caribbean that comprise her most original and compelling contribution.

At the heart of Lazarus-Black's ethnography is "how a state creates an illusion that it is representing the common interest by passing legislation to protect persons who experience domestic abuse while in reality it provides them with very little protection" [2007:91]. She explores this conundrum by analyzing everyday activities in the magistrates' courts, finding that a series of what she terms "court rites," combined with the key variable of "time" and normative concepts of the family, interfere with individual women's pursuit of justice. Her fine-grained study brings readers into the courtroom to observe how "legal reform … can be undermined by the legal process" [ibid.: 92]. For Lazarus-Black, it is in the "micropolitics of everyday legal practice" [ibid.:174] where the reproduction of inequality and the privatization of domestic violence can be found.

Her model of court rites includes 12 ways that legal processes undermine the intent behind domestic violence legal reform. These range from court judges delegalizing claimants' expressions of victimization to respondents repeatedly being given "second chances" to end their violent behavior. Although litigants are sometimes empowered by their appearance in court, Lazarus-Black illustrates, through comparative analysis to other British and British-like common law courts, how empowerment is the exception that proves the rule of victims being discouraged and left vulnerable by their experiences in court. She similarly finds that the variable of "time" works against those who bring domestic violence cases to court. Not surprisingly, speedy hearings and remedies are scarce; delays are common. However, delays are instigated not only by the abusers or their lawyers in attempts to persuade victims to withdraw applications for orders of protection but also by courthouse staff, law enforcement officers, and magistrates. According to her analysis of court dockets and observations in court, magistrates simply do not have sufficient time to hear all the cases brought to them; "therefore, decisions have to be made to reduce the caseload" [Lazarus-Black, 2007:130]. Women applicants are worn down by their abusers as well as by the series of confusing delays, causing many to give up on law as a remedy.

Women also are persuaded by a culture of reconciliation to disengage the law and resolve disputes on their own—with members of their family rather than against family members. For many Caribbean people, Lazarus-Black argues, "the meanings and experiences of 'family,' 'gender,' and 'making a living' places them within a network of persons to whom they owe major responsibilities" [2007:145]. Thus, family members, community and religious leaders, law enforcement officials, and court personnel shift

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responsibility for resolving the problem of domestic violence from the court to the complainant.

Lazarus-Black's ethnography provides insight into local meanings and experiences of domestic violence within the criminal justice system. Research focused on the criminal justice system has helped to substantiate claims for state protection of victims and accountability for perpetrators. This area of research also has been used to critique criminal justice–focused domestic violence interventions. Other anthropologists have shifted away from the criminal justice system in order to better understand the historical and cultural contexts in which domestic violence occurs—and to analyze how these contexts produce different kinds of meanings and experiences of domestic violence.

7.5 Contexts and Differences

Domestic violence studies focused on the criminal justice system are limited in their ability to capture holistic perspectives of everyday experiences of violence beyond the courtroom. A low percentage of those who experience intimate partner violence contact law enforcement, and even fewer find themselves in court. Individuals may be unwilling or unable to pursue legal remedies for a number of reasons, including fear, lack of legal knowledge, immigration status [Salcido and Adelman, 2004], poverty, racism, or the simple the lack of confidence in criminal justice system outcomes for victim safety. Much of what victims experience as violence remains normative rather than criminalized and consequently unactionable through the criminal justice system. Criminal studies flatten differences among the varying needs of victims—and thus little is known about meaningful distinctions between women who may live geographically near but may experience domestic violence differently as a result of their social location.

As a result of the majority of domestic violence research being located in and around the criminal justice system, scholarly knowledge about the range of women's (or men's) experiences of and responses to violence is severely restrained. The criminal approach to the study of domestic violence largely results in snapshots of individualized deviancy and criminalized events rather than contextualized and processual accounts of violence as a cultural norm considered in situ. Madelaine Adelman's historical and cultural contextualization provides a unique perspective on domestic violence, particularly because her research was conducted outside of the criminal justice system.

Adelman's fieldwork conducted in Israel [1997] is an early example of ethnographic projects intentionally organized around domestic violence that provides insight into the historical and cultural context of domestic violence. It is also one of the few anthropological projects that considers both Jewish and

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Palestinian citizens of Israel. The majority of her fieldwork was conducted in and around the northern port city of Haifa, with additional research conducted in the Galilee, Tel Aviv, and Jerusalem. Domestic violence was addressed at the grassroots level in Israel beginning with the establishment of the state's first battered women's shelter in 1977. It was not until 1991 that Israel passed legislation permitting a family member to apply in court for an order of protection.

Informed by local and global debates regarding "why battered women stay," Adelman's research centers on why it is so difficult and dangerous for battered women to leave, particularly through divorce. To help answer this question, she traced the history of family or personal status law in the region of what is now the State of Israel, that is, from the Ottoman Empire to the British Mandate and up through the transition to Israeli state control to the present-day system. This historical approach, combined with complementary participant-observation, interviews, and other forms of data collection enabled her to identify how Israeli divorce law may be used as an extension of domestic violence and to determine why divorce law is organized as it is in Israel [Adelman, 2000].

In Israel, regardless of the level or absence of religiosity of the couple, marital dissolution is under the jurisdiction of the officially recognized religious communities: Jewish, Muslim, Druze, and various Christian denominations. All sectors of the population allow divorce except Roman and Orthodox Catholics, for whom legal separation and annulment are available. Depending upon the religious identity of the couple as well as the procedural arrangements of the divorce, matters pertaining to a divorce (e.g., child custody, spousal maintenance, child maintenance, and division of property) may be adjudicated in a civil family court. However, the legal reckoning of a divorce itself must be supervised by a religious court judge. Interestingly, the religious courts are funded and authorized by the state—and concurrent jurisdiction has religious and civil courts sometimes working at odds in this plural legal system.

Under Jewish law, as interpreted by rabbinical courts in Israel, for a divorce to be legal, a husband must willingly present his wife with a bill of divorce; in turn, she must willingly accept it. Under Islamic law, as interpreted by the sharia courts in Israel, a *qadi* may dissolve a marriage; but more commonly, a husband may unilaterally divorce his wife. As a result of the state's inheritance and maintenance of this personal status law system in Israel, both Jewish and Palestinian women experience divorce denial and divorce as threat, as well as forced reconciliation.

The most infamous and lengthiest example of the phenomenon of Jewish divorce denial unfolded during the mid-1990s [Adelman, 2000:1239]. Ora married Yihye (in Yemen) when she was 12 and he was 28. After immigrating to Israel and enduring a decade of physical and emotional abuse, Ora began

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to ask Yihye for a divorce. After 13 years of Ora's trying to persuade him to grant the divorce, the rabbinical courts, in concert with the Attorney General's Office, incarcerated Yihye (a rather rare case of state intervention). He remained in prison for 32 years, threatening Ora that she would be released from their marriage only through widowhood. He was right. In December 1994, Yihye died in prison and in doing so, transformed Ora from an *aguna*, a woman denied divorce, translated literally as "woman in chains," to a widow.

Palestinian Muslim women in Israel also face this form of divorce-related domestic violence. When a husband is unwilling to unilaterally divorce his battered wife and the presiding qadi remains convinced that the marriage should not be dissolved, she is also denied divorce. Islamic court judges as well as rabbinical court judges can order a couple to reconcile. For example, Nahida, a 24-year-old Palestinian Muslim citizen of Israel, talked to me about how she "felt like a cow [being told to] come" whenever she fled her marital to her natal home only to have her husband turn to the qadi and obtain an order of reconciliation and obedience (*ta'a*). Upon her return home, she explained, she would face a punishing beating from her husband. Jewish men have access to a somewhat analogous form of institutionalized reconciliation, referred to as *shalom bayit*. Battered Jewish women shared accounts of repeated and lengthy divorce delays when their husbands would turn to the rabbinical court judge and express an interest in reconciliation. The divorce process would then be postponed or sometimes halted altogether.

During fieldwork on the politics of domestic violence, Adelman also observed the ongoing Israeli-Palestinian conflict, which had her reflecting on how the cultural context of militarism shaped domestic violence discourse in Israel. Militarism is a habituated worldview that legitimates and venerates organized violence as the means to obtain political goals. In other words, militarism is an ideology as well as a set of institutional arrangements and everyday practices that centers on the continual mobilization of society to prepare for, support, and fight wars. As such, militarism relies on a blurring of the boundaries between what can be defined as "military" and what or who can viewed as part of civilian life. Rather than make a distinction between the military and the nonmilitary, militarism demands that an entire society become permeated with and built according to military values and priorities. In a militarized society, one is always oriented toward war. Israel exhibits the structural components of militarism as well as the cultural traits of a militarized society. Indeed, it is impossible to assess any cultural, social, political, or economic institution without considering the dominance and normalization of the military, militarism, and militarization in Israel.

In Israel, military service helps to defines not only who you are but also one's relationship to the state, or social citizenship. Social citizenship based on military service maps a hierarchy of how you may contribute to the state,

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thus determining how well you fit in, how you are perceived by others, and what kinds of demands you may place on the state for status, for resources, or for protection.

Since the establishment of the state of Israel in 1948, military conscription and service has been determined by a matrix of rules based on legal residency and citizenship, gender, national identity, religious identity, and individual profile. Jewish men, excepting religious individuals who meet proper criteria, are conscripted for compulsory and reserve duty. Druze and Circassian men have been conscripted since 1956. A small number of Bedouin men are permitted to serve. Jewish women who are not mothers, pregnant, or married perform an attenuated length of compulsory service unless they claim exemption based on conscience or religiosity. Palestinian Israeli women do not serve. Palestinian Israeli men who are Muslims and Christians also are not conscripted.

Eligible men earn their social citizenship through military service in Israel; however, women's military service is not similarly valued. As a result, women's social citizenship is more typically "earned" through marriage and motherhood. This is true for women who are eligible to serve (i.e., Jewish women) as well as those who are barred or exempted from service (i.e., Palestinian women). In other words, women serve their nation(state) literally by reproducing it. For Jewish and Druze women in Israel, social citizenship is attained by marrying and nurturing husband-soldiers and by (re)producing and mothering son-soldiers. For Palestinian Christian and Muslim women, who can neither marry nor birth soldiers, social citizenship is based on their distance from the Israeli state and their reproduction of Palestinian-ness and national identity through their communal-based marital and mothering relationships. In this way, social citizenship constructs most Israeli men as warriors and all women in Israel as what is to be protected from perceived or actual threats to the nation, be it Palestinian or Israeli. Getting married and staying married is, in part, a militarized national duty. For battered women, this may be particularly problematic. Militarism, then, can be viewed as an important cultural context for understanding the crime of domestic violence as well as individual and institutional responses to it.

Adelman's research [2003] suggests four ways that militarism serves as a context for producing knowledge about domestic violence in Israel. "*Causality* refers to Israelis' use of militarism to explain the phenomenon of domestic violence, including its prevalence and incidence" [Adelman, 2003:1121]. For example, feminists and antimilitarists argued that military service during the Intifada in the West Bank and Gaza Strip had normalized violence so that soldiers used it when they came home at night [ibid.:1134]. *Competition* suggests that militarism and militarization results in a higher priority assigned to victims of political violence over victims of domestic violence [ibid.:1121]. In Israel, victims of political violence are "public

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objects: visible, accessible, and valued" [ibid.:1138]. *Critique* refers to how militarism marginalizes those who associate their fight against domestic violence with their fight against political violence. Finally, *context* addresses how militarism shapes how victims experience and respond to domestic violence, as in the tension Palestinian women feel when inviting the Israeli state into their homes.

In a cultural context such as militarism the very definition of what constitutes violence is dominated by national attention to political violence. This phenomenon of displacing domestic violence with political violence is not unique to Israel. In fact, it may be quite common, considering the number of people who struggle simultaneously with domestic violence and nation building, economic crisis, national disaster, food shortage, or war.

7.6 Comparison

The scholarship on domestic violence analyzed in the preceding sections is rooted in an inherited anthropological notion of comparative analysis. While contemporary anthropology eschews retrograde or simplistic evolutionary comparisons of human life, "anthropology itself, as a form of knowledge production, is an exemplar of the reflexive hybridity of cultural and social worlds (this account brings "their" culture into "ours" so that "we" can understand it, ourselves, the human condition, etc.)" [Maurer, 2005:2]. Thus, at the most basic level, anthropologists interpolate what is known with what becomes knowable through ethnography. Next, anthropologists working within a realist frame implicitly and explicitly compare the data they produce through ethnographic fieldwork with that of those who came before them in the field or those who studied similar topics in order to tack between the particular and the general. Lazarus-Black, for example, compared her analysis of courtroom processes in Trinidad and Tobago with findings from across the English-speaking Caribbean and those countries with British-like common law courts.

Anthropologists also hone in on the construction of boundaries across a population—how they are created and maintained, valued or devalued—and in doing so are able to follow the fluidity of identity and the circulation of power [Adelman, 2004]. Adelman's ethnography purposefully analyzed how the personal status law system in Israel produces national and religious distinctions among women, thereby situating them differently vis-à-vis state power and protection from violence. Anthropologists also fashion frameworks of comparative analysis that reveal patterns and variations across variables that might otherwise not be connected or contrasted. Lisa Hajjar's [2004] analysis of domestic violence in Muslim societies in the Middle East, Africa, and Asia is an example of this approach to anthropological knowledge.

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Hajjar incorporates (and rejects) comparative analysis in her study of religion, state power, and domestic violence in Muslim societies. First, she links together Muslim societies across three continents into an analytic category to identify similarities related to the general relationship between religion and state power. Next, Hajjar compares changes in political and economic conditions over time to break down ahistorical assumptions about "Muslim society" and to identify a set of patterned relationships between religion and state power.

Hajjar locates three different relationships between religion and state: "(1) communalization: religious laws, institutions, and authorities are accorded semi-autonomy from the state [e.g., Israel, India, Nigeria]; (2) nationalization: religious laws and jurisprudence are incorporated into or influential over the state's legal regime [e.g., Morocco, Egypt]; and, (3) theocratization: the state bases its own authority on religious law and jurisprudence [e.g., Iran, Pakistan]" [Hajjar, 2004:20–21]. She also compares cases within each type and over time, noting that when Islamists have been in power in Iran, opportunities emerged for more flexible interpretations of sharia. However, these liberalizing trends are "strikingly absent in Pakistan, where the trend has been toward more conservative interpretations of sharia, to the detriment of women" [ibid.:29].

Yet Hajjar refuses to conduct other kinds of comparative analyses. First, she refuses to allow the unmarked category of so-called secular societies to stand in silence. Rather than compare the "Islamic world" and the "West," with the former representing danger for women and the latter safety, she notes that domestic violence is common in nearly all countries, and furthermore, "no society could be described as 'post-religious'" [Hajjar, 2004:5]. She similarly refuses to compare whether secular or Islamic approaches to human rights are inherently "better" for women. Instead, she brackets "the question of whether *shariah* lends itself to or opposes formal equality for men and women in order to foreground the issue of violence" [ibid.:7]. Hajjar is more interested in "whether shariah is interpreted to construe violence against women as a *harm* or a *right*" (emphasis in original). She then highlights how the "trend toward more conservative positions on gender issues can be traced through Muslim governments' participation in the international process to develop a legal framework for women's rights" [ibid.:16], a framework in which defense against cultural imperialism trumps discrimination against women.

Hajjar refuses to compare rates or frequencies of domestic violence to identify which Muslim society is "worse" or "better" for women. Instead, she compares the demographic composition of Muslim societies, the history of state formation, and the relationship between religion and state that varies by country to find patterns of legal impunity (i.e., states that endorse laws that allow men to use violence against women) and social impunity (states that

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refuse to enforce laws-on-the-books against domestic violence) as well as the existence of less or more political space to fight domestic violence within any particular Muslim society.

To create this framework for comparative analysis, Hajjar drew on her previous fieldwork in the Middle East and on such secondary sources as "reports and studies by organizations, research institutions and scholars who work on domestic violence" in the Middle East, Africa, and Asia [2004:8n8]. Anthropologists who conduct comparative analysis might work in teams to be able to be in multiple sites simultaneously or consecutively. The next and final illustration of the anthropologies of domestic violence is an example of team-based multi-sited ethnography.

7.6.1 Global Connections

Typically, anthropologists conduct intensive fieldwork in one locale or region. However, the practice of "multi-sited ethnography" has grown, in large part because researchers recognize the limitations of the single-sited, geographically bounded ethnography for studying such issues as transnational immigration, finance, social movements, new media social networks, or governance [Marcus, 1995; Burawoy, 2000; Hannerz, 2003]. This approach to understanding culture is both promising and problematic for anthropologists who have relied on the richness of the mise-en-scène made possible by conventional ethnographic fieldwork.

The fourth and final illustration of anthropology's contribution to domestic violence research focuses on one such study, Sally Engle Merry's [2006] multi-sited ethnography, in which she documents the rigid and fairly colonial notion of culture commonly found within the new global legality of international human rights. Merry conducted what she terms "deterritorialized ethnography" by focusing "on a single issue, the movement against gender violence, in five local places in the Asia-Pacific region and the deterritorialized world of UN conferences, transnational NGO [nongovernmental organization] activism, and academic, legal and social services exchanges of ideas and practices" [Merry, 2006:29]. She concentrates on the development and deployment of the notion of "women's rights as human rights" as observed through UN- and state-oriented activism against gender violence.

The new international human rights regime, crafted in large part by former colonial powers, seeks to change relationships among family members, workers and employers, and citizens within postcolonial states. Human rights logic distinguishes between unmarked, acceptable human behavior and those cultural practices deemed primitive or uncivilized in a way that erases local context, history, and political economy. The new global legality proffers the state as the giver of security and social justice, despite striking structural inequalities between the global North and South.

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The United Nations was established on the principle of universal human rights that transcend cultural difference and political borders. According to human rights discourse, there exists a universal standard of justice based on a set of individual-based natural rights. Grounded in post-Enlightenment Western philosophies of the individual in law and society, these basic rights have traditionally adhered to certain categories of individuals, namely, property-owning Western white men. Since the establishment of the United Nations in October 1945, efforts have been made to explicitly incorporate into UN documents the experiences and interests of such subordinated cultural groups as indigenous peoples and members of racialized minority groups. More recently, attempts have been made to integrate the unique experiences of women into the language and activities of the United Nations and other human rights organizations. Thus, although the preamble to the Universal Declaration on Human Rights includes language about the "the dignity and worth of the human person" and "the equal rights of men and women" and while the foundational International Covenant on Civil and Political Rights (ICCPR) includes "sex" as a protected category against discrimination, member states have recognized the need for and have supported initiatives that target the development of women's economic, political, and social rights.

These efforts include the UN Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), also referred to as the Women's Convention. The Women's Convention can be traced, in part, to the creation in 1946 of the UN Commission on the Status of Women. Largely inspired by a call for such a document that emerged during the 1975 International Women's Year World Conference, the commission ultimately drafted an international instrument on the human rights of women. In 1977, in response to the commission's draft, the United Nations appointed a special working group to finalize the draft. The Women's Convention was adopted by the UN General Assembly in December 1979. The member states of Barbados, Canada, Rwanda, Sri Lanka, and Sweden were some of the first to ratify the convention without reservation. The Women's Convention entered into force September 1981. As of October 2009, 185 member states (excluding the United States) have ratified the Women's Convention.

The Women's Convention, CEDAW, is at once a controversial, radical manifesto and a rather conventional outline of basic needs of and goals for women worldwide. In Article 1 the document crafters define discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." Fifteen additional articles detail how and in what areas of life to target states' efforts to eliminate discrimination against women.

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As a whole, CEDAW proponents envision a world in which women have equal rights in both the public and private spheres of life. To achieve such a world, women must be afforded the same opportunities, resources, and rights as men. Article 4 elaborates how, in the short term, "temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination," nor shall those measures "aimed at protecting maternity." This "sameness" vision of equality between men and women presupposes that women constitute a class.

One of the more innovative components of the women's rights as human rights concept is the revitalization of state responsibility and accountability for human rights violations. Women's human rights activists have interpreted international law to center on state responsibility for the enactment and application of gender equality in law and society. In addition to debates over the meaning of gender equality and whether a particular state-level law provides it, the gendering of human rights has introduced new ideas about state accountability for human rights violations. Whereas human rights violations were previously construed as those acts perpetrated by the governing on the governed (i.e., relations between individuals and the state), the gendering of human rights principles demands that member states regulate relations among individuals within the state. This means, for example, that states are instructed to consider and regulate relations among family members. In other words, women's rights as human rights transforms domestic violence from an individual, privatized trouble to a violation of women's fundamental human rights to equality, security, liberty, integrity, and dignity. As a result, states are charged with preventing and punishing otherwise "private conduct" that violates the inalienable rights of women. States are held to the standard of "due diligence" in preventing, investigating, or punishing acts of violence against women. Explaining this new approach, the U.N. Special Rapporteur on Violence Against Women has argued that "a state that does not act against crimes of violence against women is as guilty as the perpetrators."

To further advance women's human rights, and partly in response to critiques that CEDAW does not explicitly name violence against women as a violation of women's human rights, the UN General Assembly approved the Declaration on the Elimination of Violence Against Women (DVAW) in December 1993. This declaration calls on states to condemn violence against women in all its forms; to refrain from engaging in violence against women; and to "punish acts of violence against women, whether those acts are perpetrated by the State or by private persons." In 1995, at the United Nations Fourth World Conference on Women in Beijing, 189 state governments pledged to organize around violence against women. As a result of these declarations and pronouncements, state governments are now specifically charged with preventing the occurrence of and protecting women from

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gender violence as well as building "new ways for women to win justice and redress when they are targeted for violence."

The goal of this new global legal order is to have states adopt UN standards and then have the UN regulate state compliance. Government officials are being asked, for example, to provide evidence of legislative and social change in order to prove to international representatives that their countries are complying with the standards outlined in CEDAW. Article 17 of the Women's Convention establishes an international committee to implement such a process of global oversight. The committee is charged with soliciting and reviewing states parties' periodic country reports. It is composed of 23 members who each serve a four-year term. Within one year of ratification of the Women's Convention, states are obliged to submit initial reports in which they describe "legislative, judicial, administrative or other measures that they have adopted to implement the Convention." The CEDAW Committee provides states with guidelines to prepare these reports. The initial report is "intended to be a detailed and comprehensive description of the position of women in that country at the time of submission." According to the guidelines, the CEDAW Committee requests states to elaborate on the de facto as well as the de jure position of women in society. This initial report may then be considered a baseline instrument or tool from which to measure any future achievements in meeting the treaty goals and standards of equality. States parties to the Women's Convention then submit country reports to the committee every four years.

Merry describes her first encounter with UN meetings as "confusing and exiting at the same time" [2006:37], noting that transnational elites, all speaking English, "debate circles around word choice rather than social science evidence" [ibid.:19]. Still, "important political issues lurk under the bland discussions about terminology" [ibid.:39]. Through her observation of these exchanges, Merry identifies tensions, particularly between the global South and North, and between NGO representatives and government delegates. Wealthier countries opposed inserting references to poverty and armed conflict into human rights documents and resolutions; more secular states were at odds with the Holy See and some Islamic nations over language related to sexual orientation and reproductive choice [ibid.:44–45]. Merry concludes, however, that consensus over these documents is critical because "there is no international mechanism for punishing states that ignore or resist the policy recommendations of the UN documents" [ibid.:47].

Those who analyze the outcome of UN documents regarding women's rights and gender violence bypass this rich data source on language, process, and social capital. Merry suggests that the new form of global legality is enacted during these bureaucratic exchanges and brokering of power held in windowless conference rooms where the relationship between gender violence and "culture" is debated.

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According to Merry's study, the gender violence human rights movement, perhaps more explicitly than other human rights initiatives, relies on a problematic culture concept. In her analysis of the interplay between the United Nations and member-state CEDAW signatories, Merry details the wholesale rejection of the Fijian alternative dispute resolution practice of *bulubulu*, a peacemaking and reconciliation mechanism practiced among villagers. It typically includes three main components: (1) offending party recognizes harm caused, (2) offending party apologizes and makes reconciliation offering, and (3) parties reconcile. Bulubulu helps to limit revenge-based violence, manages status hierarchies by harmonizing relationships among mutually dependent covillagers who live in an array of egalitarian and hierarchical relations, and minimizes the ability of those of superior status, when injured, to disproportionately exploit or punish those of lower status.

Fijian activists share CEDAW committee members' concerns about the use of bulubulu for rape cases, but thay are adamant that bulubulu is a critical part of Fijian villager life. Merry outlines how the practice became ensnarled with efforts to enhance criminal penalties for rape and how individuals became adept at using bulubulu to work the system and withdraw from or minimize criminal sanctions. Lacking understanding of the complexities of bulubulu, the CEDAW Committee called for its complete eradication, alienating local leaders who were required to advance CEDAW values. In the process, bulubulu became further entwined in national tensions between Fijians and Indo-Fijians, such that "attacks on Fijian village custom are seen as assaults on the Fijian nation" [Merry, 2006:117].

When the United Nations formerly recognized women's rights as human rights, other nongovernmental organizations such as Amnesty International and Human Rights Watch quickly endorsed the idea that the specific experiences of women should be taken into account by those monitoring human rights abuses. In turn, this global attention to women's human rights, such as the globalization of gender violence as a violation of women's human rights, has created new ideas about governance and citizenship. The United Nations has been a partner in these changes by providing forums and support for the globalization of women's human rights. The Beijing and Beijing Plus Five follow-up meetings are evidence of the high-profile and newly institutionalized nature of women's human rights within the UN system. Moreover, through such conventions as CEDAW and such declarations as DVAW, the United Nations has produced symbolic frameworks as well as bureaucratic mechanisms for achieving women's human rights. Together, these symbolic frameworks and bureaucratic mechanisms constitute a new supranational or global legal order. Intentionally or not, at the same time, the new global legal order of international women's human rights pits "culture" against "women's equality" while bringing attention to heretofore hidden forms of gender-based abuses and discrimination against women.

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7.7 Studying Domestic Violence in Situ

The foregoing review of the most recent and promising anthropologies of domestic violence renders visible the process by which such criminalized phenomena as "domestic violence" are coded alternately actionable (illegal) or invisible and tolerable (normative) depending upon the period and social location analyzed. These four studies revealed, for example, locally specific forms of domestic violence (e.g., divorce denial and cultures of reconciliation) and tapped into how such discourses as militarism may shape the way a society explains, perpetrates, experiences, and responds to domestic violence.

The anthropological studies help us to consider how domestic violence is hijacked for otherwise noncriminal purposes. Politicians in Israel, for instance, have used the social problem of domestic violence to both advocate for the peace process and condemn it. In Fiji, UN condemnation of local custom is used as ammunition in nationalist conflicts. Islamists pit women's rights against rulers' maintenance of state power. Probation officers in Trinidad urge women to disengage from courts and reconcile with their abusers in order to shore up family networks. Yet the four cases examined here also reveal otherwise hidden forms of agency and opportunities for gendered empowerment and social change. Magistrates in the Caribbean use court rites and discretionary power to implement new ideas about domestic violence. Member states craft human rights documents using consensus-based decision making so that a range of concerns can be read into these newly invented tools of global legality. Women in Muslim societies advocate for feminist interpretations of sharia in Iran.

Anthropologists tend to maintain scholarly focus on meaning and experience, historical and cultural context, comparison, and global connections. These anthropologies of domestic violence are highlighted here as an invitation to scholars to add to their research repertoire by either incorporating one or more of the models outlined and/or building cross-disciplinary engagements with anthropologists who have at the center of their disciplinary toolbox the contested concept of culture.* I am not arguing here for the "culturalization of violence" in which cultural difference becomes justification for ignoring or "understanding" violence against women in those groups marked as "cultural" while unmarked, dominant groups and their violence remain unexamined [Adelman, Erez, and Shalhoub-Kevorkian, 2003].

* In this way we complement researchers in cognate disciplines who have generated scholarship on domestic violence that includes significant considerations of culture, such as that published in the newer journals *Violence Against Women* and *Feminist Criminology* [and see, e.g., Abraham, 2000; Daly and Maher, 1998; Ferraro, 2006; McGillvray and Comasky, 1999; Ptacek, 1998; Renzetti and Goodstein, 2001; Ritchie, 1996; Websdale, 1998].

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Instead, I am suggesting that anthropologists may be well positioned to trace the deployment of the culture concept in domestic violence and other discourses of criminality. We welcome the opportunity to play a larger role in critically assessing the place of "culture" in domestic violence discourse, including the regulation of the crime of domestic violence by the state.

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Methodological Issues in the Comparison of Police-Recorded Crime Rates

8

MARCELO F. AEBI

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8.1 Introduction

Science is based on comparisons, and criminology is no exception to that rule. For example, the crime rate of a country cannot be considered as high or low without comparing it to the crime rates of other countries. It is probably for that reason that since crime statistics were available for a few countries, the

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first *criminologists* started comparing them. The pioneers in that field were French-speaking authors like Adolphe Quételet [(1831) 1987] and Alphonse de Candolle [(1830) 1987a, (1832) 1987b], followed by Gabriel Tarde [1886] with his book *Comparative Criminality* (*La criminalité comparée*). Later, such members of the Italian Positive School as Cesare Lombroso and Enrico Ferri also included international comparisons in some of their works. In that context, it is interesting to point out that from the very beginning, some of these authors were fully aware of the limitations of such comparisons. Thus, de Candolle [(1830) 1987a] was probably not only the first author to acknowledge the problem of the dark figure of crime [Beirne, 1993:105] but also the first one to point out that international comparisons were almost impossible [de Candolle, (1832) 1987b] and to criticize the methodology applied by Quételet [(1831) 1987] for such comparisons.

However, almost two centuries later, criminologists are still gathering data on crime across countries and trying to compare them. The difference comes from the fact that currently, comparisons of recorded crime rates usually begin with a statement like the following: "Crime rates from country to country are difficult to compare because of differences in criminal justice systems, in definitions of crime, in crime reporting practices and record-keeping" [Kalish, 1988].

The goal of this chapter is to illustrate in an empirical way some of the main methodological problems related to the international comparisons of recorded crime rates. In order to do that, we compare police statistics in 37 European countries.

8.2 Known Problems in the Comparisons of Police Statistics

Four factors play a major role on the outcome of police statistics on recorded crime: statistical factors, legal factors, substantive factors, and criminal policy factors. The first three were identified and clearly explained by von Hofer [2000]. These factors affect the national crime statistics of each country in a different way, hence complicating cross-national comparisons.

According to von Hofer [2000], substantive factors refer to the propensity to report offenses, to the propensity to record offenses by the police or other recording authorities, and to the actual crime levels. Legal factors refer to the influence of the legal definitions of offenses adopted in each country and to the characteristics of the legal process, including delays for prescription or the possibility that prosecuting authorities bring to court personal offenses—such as rape—on their own initiative. From that point of view, the prosecuting authorities' use of the legality principle or the opportunity, or expediency, principle has a strong influence on the number of offenses dealt with by courts.

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Criminal policy factors relate to the crime and crime prevention policies applied by a country and may have an influence on the three aforementioned factors. For example, by the end of the 1990s, the prevention of domestic violence became a priority in Spain; thus, a series of laws were approved and, as a consequence, the number of domestic violence offenses recorded by the police multiplied threefold between 1997 and 2004. The application of a zero-tolerance policy should also lead to an increase in police-recorded offenses, at least during the first months of its application, because if the police are interested in every offense, the number of recorded offenses should increase. Indeed, whenever such is not the case—that is, when the number of police-recorded offenses decreases with the application of a zero-tolerance policy—there is likely a decrease in the propensity of the police to record offenses.

Finally, statistical factors refer to the way in which crime statistics are elaborated. In that context we define the *statistical counting rules* as the rules applied in each country to count the offenses and the offenders that will be included in crime statistics. Such rules vary from country to country, hence introducing differences in recorded crime rates that do not reflect actual differences in the levels of crime. In this chapter, we concentrate our analysis on these factors, which are probably the ones that have, until now, received less attention by criminologists interested in cross-national comparisons.

8.2.1 The Data

Using data on offenses known to the police taken from the *European Sourcebook of Crime and Criminal Justice Statistics, 2003* [Killias et al., 2003; referred to in the rest of this chapter as the *European Sourcebook*], in this chapter we analyze the influence of statistical counting rules on cross-national comparisons of recorded crime in 37 Council of Europe member states with a total population of at least a half million people.

The *European Sourcebook* is prepared by a group of experts who pay special attention to the way in which data are collected for statistics. Thus, since its first edition [Council of Europe, 1999], the questionnaire sent to the national correspondents responsible for gathering the data in each country includes a series of questions on that topic. In the second edition, this information is summarized in one table [*European Sourcebook*, 2003:74–75], which includes the answers given by the countries to the following questions:

1. Are there written rules regulating the way in which data are recorded?
2. What is the counting unit used in the statistics?
3. How is an offense committed by more than one person counted?
4. Is a principal offense rule applied?
5. How are multiple offenses counted?
6. When are the data collected for the statistics?

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The information gathered through these questions is usually known as *metadata*, and it is presented in the following paragraphs. Indeed, data included in the statistics cannot be understood without taking into account this metadata.

8.2.2 Statistical Counting Rules in 37 European Countries

8.2.2.1 Are There Written Rules Regulating the Way in Which Data Are Recorded?

The presence of written rules regulating the way in which data are recorded for statistics guarantees some level of homogeneity in the recording practices of different police officers and different police forces within the same country. With the exceptions of Denmark, Switzerland, and Turkey, all European countries studied here do have such written rules. In the case of Switzerland, the different cantonal rules have been replaced by unified federal rules only in 2009.

8.2.2.2 What Is the Counting Unit Used in the Statistics?

Usually, the counting unit used in European statistics on offenses known to the police is the *offense*. Nevertheless, in Cyprus, Portugal, and Turkey the counting unit is the *case*; in Latvia it is the *decision*—and a case or a decision may include several offenses; whereas in France, Switzerland, and Scotland the counting unit depends on the type of offense. In Scotland, for example, one offense is counted for each victim in the case of offenses against a person; but for offenses of dishonesty and robbery, one offense is counted per incident regardless of the number of victims. In France, the counting unit is the victim for homicides, rapes, and thefts when the stolen thing is unspecified; the plaintiff in the case of assault; the offense in the case of burglary; the vehicle in the case of motor vehicle theft; the case (i.e., the criminal procedure) for drug trafficking; and the author for the use and reselling of drugs.

8.2.2.3 How Is an Offense Committed by More Than One Person Counted?

When more than one person commits an offense—as, for example, when a gang of five members robs a bank—most countries count one offense, but Hungary counts one offense for each offender, and in Sweden and Switzerland the situation varies according to the offense. Thus, in the case of drug offenses, Sweden and Switzerland count one offense per offender, and Sweden applies the same rule in the case of rape.

8.2.2.4 Is a Principal Offense Rule Applied?

Another source of artificial differences in the levels of recorded crime is the way in which simultaneous offenses are recorded. In countries using a

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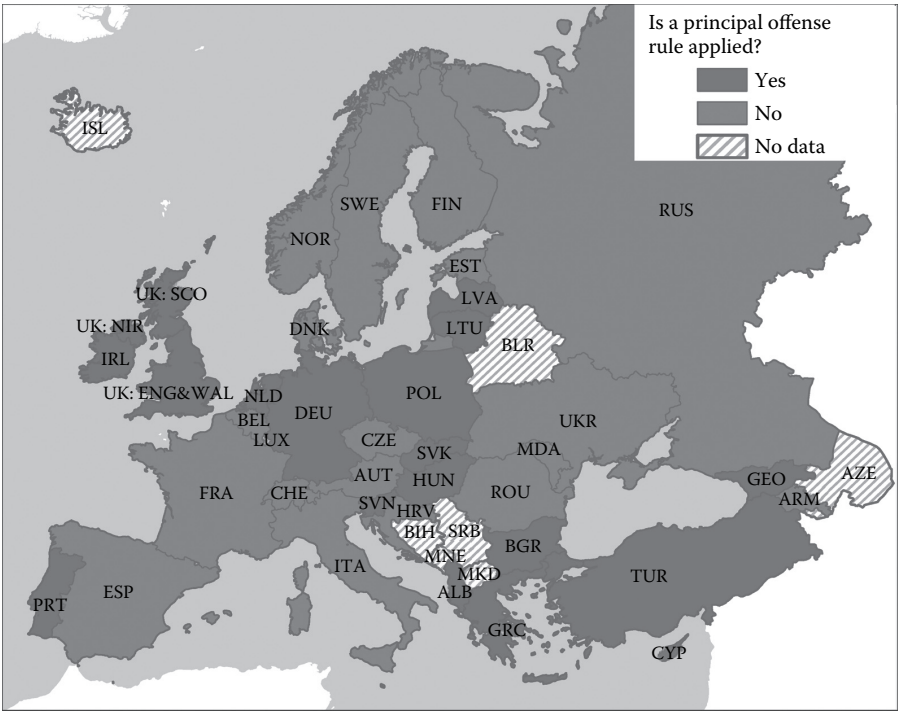


Figure 8.1 Application of the principal offense rule in police statistics across Europe.

principal offense rule, only the most serious offense is recorded, whereas in countries without such a rule, each offense is recorded independently. If in the course of theft an offender also causes damage to the property and kills one person, for example, police statistics of countries applying a principal offense rule will show only one offense (i.e., homicide); whereas in countries where there is no such rule, each offense (homicide, damages to the property, and theft) will appear separately. In Europe, 19 countries apply a principal offense rule and 18 do not apply such a rule (see Figure 8.1).*

8.2.2.5 How Are Multiple Offenses Counted?

A similar problem is raised by multiple offenses, that is, by offenses of the same kind, which are often called *serial offenses*. If a woman reports to the police that her husband has beaten her five times during the last six months, for example, it is crucial to know whether the police will record one or five offenses. As it is shown in Figure 8.2, in such cases, 9 European countries

* The countries that do not apply a principal offense rule are Armenia, Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Italy, Moldova, Norway, Romania, Russia, Spain, Sweden, Switzerland, and Ukraine.

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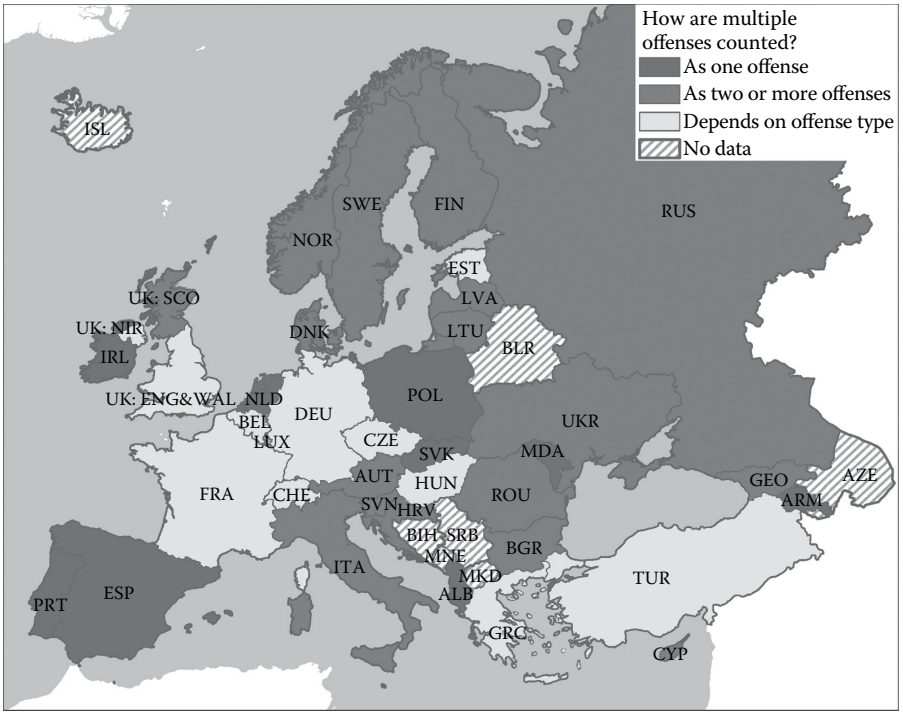


Figure 8.2 Recording of multiple offenses in police statistics across Europe.

count only one offense and 17 count two or more offenses.* In the remaining 11 countries the situation is uncertain either because there are no strict rules on that issue (e.g., Estonia) or because the rule depends on the number of victims (e.g., Germany) or on the type of offense (e.g., Finland). In Germany, for example, multiple offenses against the same victim or without a victim are counted as one offense, but multiple offenses against different victims are counted as two or more offenses; whereas in Finland only multiple drug offenses are counted as one offense.

8.2.2.6 When Are Data Collected for the Statistics?

Finally, according to when data are collected for the statistics, countries can be classified into three different groups: those with *input* statistics, those with *output* statistics, and those with *intermediate* statistics. In countries using input statistics, data are recorded for statistical purposes when the offense is reported to the police. In contrast, in countries using output statistics, data are recorded when the police have completed the investigation.

* In particular, Albania, Armenia, Ireland, Moldova, Netherlands, Poland, Portugal, Slovakia, and Spain count one offense, whereas Austria, Bulgaria, Croatia, Cyprus, Denmark, Finland, Georgia, Italy, Latvia, Lithuania, Norway, Romania, Russia, Slovenia, Sweden, Ukraine, and Scotland count two or more offenses.

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Between these extremes, some countries record data at an intermediate stage of the process, that is, at some point in time between the input and the output.

Knowing that the number of offenses registered by official measures of crime decreases as the criminal process advances [Sellin, 1951; President's Commission, 1967], one would expect that all other things being equal—including, for example, the definition of the offenses, the actual level of crime, the propensity to report and to record offenses, as well as all other statistical, legal, substantive, and criminal policy factors—countries using input statistics will present higher crime rates than countries using output statistics.

In countries with input statistics, for example, when a person reports a theft to the police, the offense is automatically included in police statistics; in contrast, in countries with output statistics, the report is received but the offense is not included in the statistics until the police investigation is complete. Thus, the offense will not appear in police statistics if the investigation reveals that offense never happened. Moreover, if the police discover that it was a case of false reporting, this new offense will appear both in countries with input and in countries with output statistics. As a result, the first ones will record two offenses in their statistics but the second ones will only record one.

Indeed, this problem is related to the validity and reliability of police statistics. In countries with input statistics, the police officers arriving at the scene of a crime or receiving a report from a victim do not usually have enough information about the circumstances of the offense, and this may lead them to classify it inadequately. The evidence collected during the investigation may, for instance, show that what seemed to be an attempted homicide was, in fact, a case of aggravated assault. Output statistics could thus be seen as more reliable than input statistics, but they could be less valid, since some offenses may disappear from the statistics only because the police were unable to find evidence of them. As can be seen in Figure 8.3, 15 European countries use input statistics, 14 countries use intermediate statistics, and 8 countries use output statistics.*

* In the *European Sourcebook* questionnaire, the question regarding counting rules was asked for each type of offense included in the questionnaire. Because the questionnaire included questions on total offenses, intentional homicide, assault, rape, robbery, theft, theft of a motor vehicle, burglary, domestic burglary, and drug offenses, each country thus answered the same question ten times, once for each type of offense. Nevertheless, the answers were almost the same from one offense to another. Therefore, the printed version of the *European Sourcebook* synthesizes answers in only one table [*European Sourcebook*, 2003:74-75, Table 1.3.1]. Unfortunately, Slovakia is presented in that table as having given no answer to the counting rules question; but in fact the country answered nine times that it used output statistics, and only once—in the case of the total number of offenses—did it leave an answer blank. That mistake was corrected in the comments [*European Sourcebook*, 2003:24, point 17], where it is mentioned that eight countries use output statistics. It has also been corrected here, where Slovakia is presented as having output statistics.

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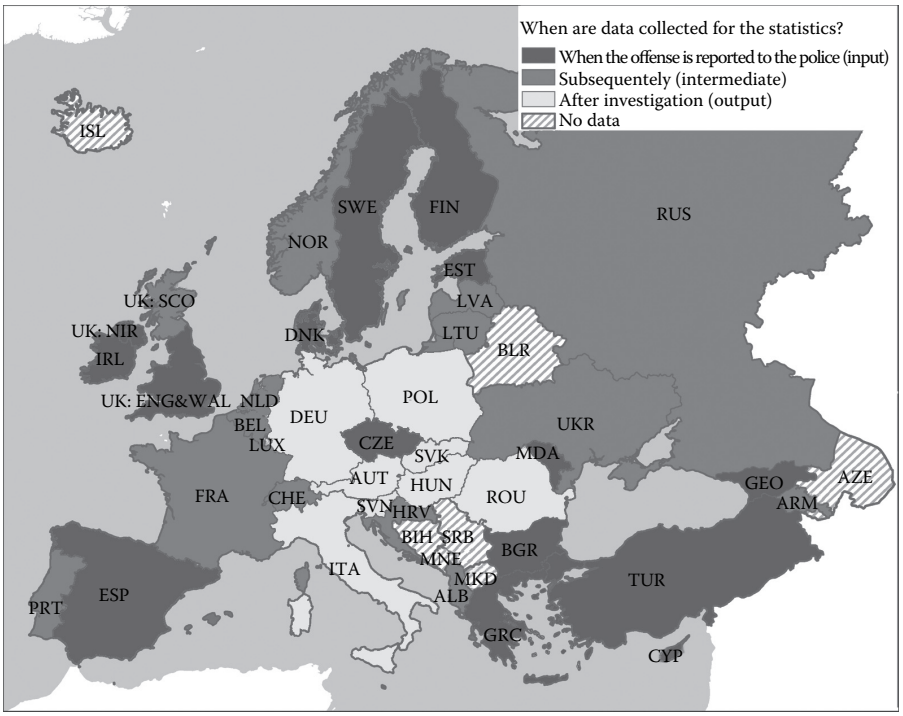


Figure 8.3 Moment when data are collected for police statistics across Europe.

8.2.2.7 An Overview of the Main Differences in Statistical Counting Rules across Europe

As is evident in the previous section, most European countries (a) have written rules regulating the way in which data are recorded for police statistics, (b) use the offense as the counting unit, and (c) count only one offense when an offense is committed by more than one person. In contrast, there are huge differences regarding (d) the use of the principal offense rule, with 19 countries applying such a rule but 18 not applying it, and (e) the way in which multiple offenses are counted, with 9 countries counting one offense, 17 counting two or more, and 11 countries varying the rule according to the number of victims or the type of offense. There are also differences in (f) the moment when data are collected for the statistics, with 15 countries using input statistics, 14 using intermediate statistics, and 8 using output statistics.

8.3 Trying to Improve the Comparability of Police Statistics

Some of the counting rules applied for the elaboration of police statistics vary widely across Europe. To complicate the picture, all the statistical factors

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mentioned before combine themselves in each country. Thus, *all other things being equal*, one would expect the highest rates of recorded crime in countries with input statistics, using offenses as counting units, not applying a principal offense rule, counting multiple offenses as two or more offenses, and counting offenses committed by more than one person as two or more offenses.

But that hypothesis cannot be tested like that because we cannot control all the other legal, substantive, and criminal policy factors—*all other things*—in order to be sure that the differences in recorded crimes are due only to statistical factors. In particular, because we do not know the actual levels of crime in each country, we cannot simulate a situation where levels are identical across countries.

Nevertheless, we can still compare recorded crime rates across nations according to their statistical counting rules. In that context, if nations whose counting rules tend to record more offenses have higher levels of recorded crime than nations whose counting rules tend to record fewer offenses, we could conjecture that the differences in recorded crime may be partially due to the statistical counting rules applied.

In order to make that comparison, we can classify countries in different groups according to their counting rules. However, it must be kept in mind that we are studying only 37 countries. Thus, if we create too many groups—and the combination of all the foregoing statistical factors would allow us to create several groups—the number of countries in some groups would be too small to produce valid results. At the same time, the influence of each statistical factor is not identical. In particular, the way in which multiple offenses are counted affects only multiple offenses, and the use of a principal offense rule affects only cases where more than one offense has been committed. Unfortunately, we do not know for each country how many offenses were multiple offenses and how many offenses were included in each case when a principal offense rule was applied. The only factor that affects the way in which each offense is recorded is the moment when the data are collected for statistics. That is, therefore, the factor that is used in our analysis.

8.3.1 Crime Rates according to the Moment Data Are Collected for Police Statistics

In order to perform the following analyses, we have classified the countries into three groups according to the moment when data are collected for police statistics. The first group includes countries using input statistics, the second one includes countries using intermediate statistics, and the last one includes countries using output statistics.

After that, we have calculated for each group the average number of different offenses: traffic offenses, rape, theft, theft of a motor vehicle, burglary,

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domestic burglary, robbery, assault, and intentional homicide, as well as the total number of offenses, per 100,000 population, recorded by the police in 1999.[*] By making that calculation, we are placing our analysis at a macro level because we are comparing groups of countries instead of countries individually. This is because the crime rate of a particular country is explained by a combination of statistical, legal, substantive, and criminal policy factors. Thus, an extremely high rate for an offense—for example, the rates for completed intentional homicide in Albania and Estonia—cannot be explained by only one statistical factor. For the same reason, we have chosen offenses whose definitions are similar across European countries.[†] In Figure 8.4 we have standardized the results of our analysis using the output for each offense as an index (= 100).[‡]

As can be seen in Figure 8.4, countries using output statistics systematically present lower crime rates than countries using input and intermediate statistics. At the same time, countries using intermediate statistics usually present lower crime rates than countries using input statistics. The only exceptions are robbery, burglary, and completed intentional homicide, where the group of countries with intermediate statistics has higher levels of recorded crime than the one with input statistics.

Moreover, in an analysis not shown here [Aebi, 2008b], we have replicated these comparisons for every year included in the *European Sourcebook* (i.e., from 1995 to 2000) and found practically the same pattern shown in Figure 8.4.[§] A comparison of the counting rules included in the third edition of the *European Sourcebook* [Aebi et al., 2006] with the data collected through the

[*] Data on offenses per 100,000 population are from the *European Sourcebook* [2003:33–44], in which 1999 was the year of reference for detailed questions.

[†] Drug offenses were not included because their treatment is so different in each European country that any valid comparison is impossible. For example, in 1999 there were more than 900 drug offenses per 100,000 population in Norway, whereas in Switzerland and Scotland there were more than 600, and in Albania, Bulgaria, Romania, and Turkey there were 10 or less than 10. In particular, the rate for Norway was more than 300 times higher than the rate for Romania, where only 29 drug offenses were known to the police. Even inside the United Kingdom, the rate for Scotland is usually six times higher than the rate for Northern Ireland and used to be 10 times higher than the rate for England and Wales before the latter changed its statistical counting rules in 1998 [*European Sourcebook*, 2003:45].

[‡] Some countries did not provide data for every offense; therefore, for those offenses our sample has less than 37 countries. This concerns traffic offenses (27 countries provided data), completed intentional homicide (30 countries), motor vehicle theft (36 countries), burglary (30 countries), and domestic burglary (28 countries).

[§] In that context, it must be mentioned that the statistical factors studied here are not stable across time. Indeed, 11 out of the 37 European countries included in our sample reported that their data recording methods had been substantially modified between 1995 and 2000 [*European Sourcebook*, 2003:74–75]. Those countries were Austria, Bulgaria, Ireland, Latvia, Norway, Romania, Slovakia, Slovenia, Spain, and England, Wales, and Northern Ireland.

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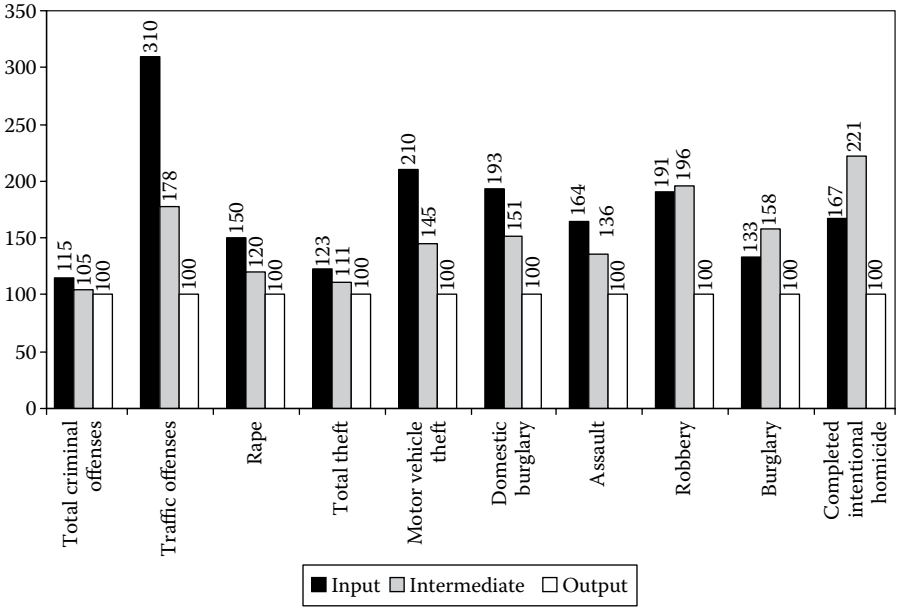


Figure 8.4 Indexed average number of offenses per 100,000 population known to the police in European countries grouped according to their statistical counting rules (output = 100).

United Nations Survey on Crime Trends and Criminal Justice Systems [Aebi, 2008a] also corroborated our hypothesis.

For intentional homicide, we have made a more detailed analysis because it is an offense that proves to be particularly problematic for cross-national comparisons. Thus, in Figure 8.5 we present the total number of intentional homicides recorded in 27 European countries in 1999, taking into account the proportion of completed and attempted homicide. Countries are sorted according to their rate of completed homicide per 100,000 population, and it can be seen that Scotland is placed in the middle of the scale; but when one takes into account the total number of homicides, including attempts, it becomes the Western country with the highest rate of homicides. This is because there is a wide variation across European nations regarding the proportion of completed and attempted homicides included in the total number of intentional homicides. For example, only 15% of the total number of intentional homicides known to the Scottish police in 1999 were completed homicides, whereas that figure was 33% in Belgium, 50% in Austria, 72% in Poland, 90% in Lithuania, and 100% in Slovakia, where all the homicides recorded were completed.

Such differences are explained, not by the moment when data are collected for statistics, but by the rules applied to decide whether a situation is to be labeled as *homicide* or not. For example, the total number of intentional

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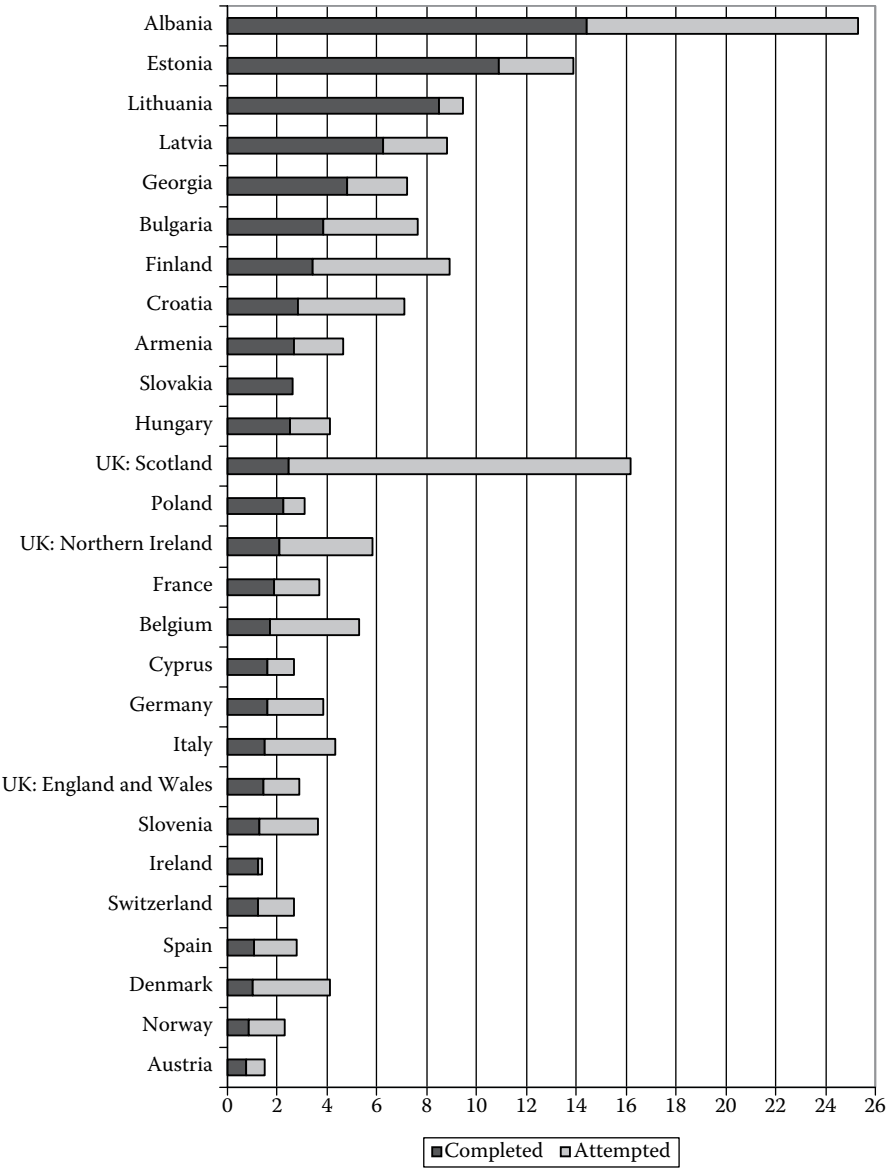


Figure 8.5 Average number of intentional homicide offenses (including proportion of attempted and completed homicide) per 100,000 population known to the police in 1999 in 27 European countries.

homicides will be high in countries that instruct their police officers to record as homicide each case where the possibility of a homicide cannot be excluded, even if the crime scene suggests another offense, such as a suicide, as more probable. On the contrary, if such a rule is not applied, the total number of homicides will be less important. In the same perspective, police forces

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of different countries may label the same offense as either *serious assault or attempted homicide*.

From a methodological point of view, Figure 8.5 suggests that cross-national comparisons of intentional homicide rates should only be made using the rates for completed homicide. That reason is why we have included only completed intentional homicide in our analysis (see Figure 8.4), where countries with intermediate statistics present the highest crime rates.*

In fact, intermediate statistics pose a problem, for with the information available to date, it is impossible to assess the exact moment of the process, between input and output, when the statistics are collected in each country. If data were recorded for statistics at a moment in time close to the input instead of the output, for example, it would seem logical to have more or less similar crime rates in countries with input statistics and in countries with intermediate statistics.

8.4 Discussion

In sum, our analysis generally supports the hypothesis suggesting that the statistical counting rules regarding the moment when data are collected for the statistics play a major role in the explanation of the crime rates registered in each country. Of course, this does not *prove* that the differences in recorded crime are attributable to that factor. As noted before, cross-national differences in recorded crime are the result of a combination of statistical, legal, substantive, and criminal policy factors.† In that context, one cannot exclude

* However, it must be mentioned that the average for countries with intermediate statistics is highly inflated by the presence of Albania with a rate of 14.4 homicides per 100,000 population. The exclusion of Albania does not change the general picture—countries with intermediate statistics still have the highest crime rates—but diminishes the differences between groups.

† For example, the average rape rate in countries using output statistics is 6 offenses per 100,000 population, whereas in countries using input statistics it is 9; but even when one restricts the comparison to the group of countries using input statistics, rape ranges from a minimum of 1.2 per 100,000 population in Georgia to a maximum of 23.7 in Sweden. An analysis of the influence of statistical, legal, and substantive factors on the Swedish rape figures has shown, among other results, that in 1997 the figure would have been 16% lower if the country had output instead of input statistics, that a change in the statistical routines introduced in 1975 accounts for an estimated 35% increase in the level of offenses registered per month, and that the enlargement of the legal definition of rape introduced in 1992 accounts for a supplementary 25% increase [von Hofer, 2000]; but such an analysis can be performed only when the country has an extremely detailed statistical system such as the one used in Sweden. A similar problem arises with traffic offenses, where even among countries using input statistics, the median rates range from 1.1 in Ireland to more than 2,500 in Finland. Such a difference undoubtedly reflects the influence of many factors, even if the main one seems to be that Finland includes minor traffic offenses in its statistics whereas Ireland does not.

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that the explanation of the pattern shown in Figure 8.4 is that countries with output statistics are the ones where less offenses are effectively committed, but even in that case the difference between these countries and those with intermediate or output statistics are surely inflated because of the counting rules applied.

Finally, Figure 8.4 suggests that the influence of the counting rules varies according to the offense. In fact, whereas for the total number of offenses countries with input statistics present rates that are 15% higher than the ones in countries with output statistics, the difference is of 110% for motor vehicle theft and 210% for traffic offenses. The problem comes from the fact that we do not know precisely which part of that percentage is attributable to the statistical counting rules applied. Nevertheless, one could suppose that it would be less important in such cases as completed intentional homicide, which is not very common—it is the offense with the lowest rates in the *European Sourcebook*—but is clearly defined and verifiable (by the presence of a dead body) and whose clearance rate is high. Unfortunately, from a methodological point of view, most offenses do not present that profile, and therefore their rates are probably more influenced by the statistical counting rules applied in each country.

8.5 Conclusion

By comparing the crime rates of European countries according to their counting rules, we have seen that for every kind of offense, countries using output statistics have lower crime rates than countries using intermediate and input statistics. At the same time, for almost all offenses, countries using input statistics have higher crime rates than countries using intermediate statistics.

Therefore, we can conclude that European crime rates seem to follow the following pattern: Countries using input statistics reveal higher crime rates than countries using intermediate statistics, and countries using intermediate statistics show higher crime rates than countries using output statistics (see Figure 8.6). This pattern reflects the structure of the criminal justice process, which has often been compared to a funnel [President's Commission, 1967]. As pointed out before, this is an application of the general principle stating that the number of offenses registered by official measures of crime decreases as the criminal process advances [Sellin, 1951]. Of course, that principle is well known by criminologists; but to our knowledge, our research is the first research that corroborates *empirically* its application to cross-national comparisons of recorded crime.

As mentioned before, our analysis does not *prove* that cross-national differences in recorded crime are attributable to the statistical counting rules

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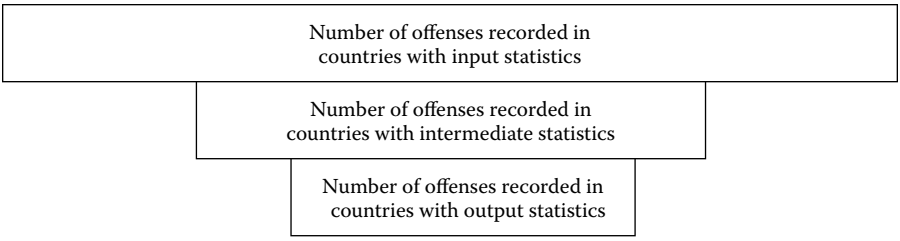


Figure 8.6 Statistical counting rules and their influence on the volume of recorded crime.

used in each country; however, it strongly suggests that these rules play a major role in the explanation of those differences.

Statistical counting rules may have less influence on the rates of a clearly defined and verifiable offense such as completed intentional homicide, but the rules do play a major role when one considers intentional homicide including attempts. Nevertheless, in that case what is determinant is not the moment when data are recorded for statistics but the rules applied to decide whether an offense is to be labeled as *homicide* or not. These rules vary widely across nations. Thus, in some countries, attempted homicide may represent more than 80% of the total intentional homicides recorded, whereas in others it may represent less than 20%. Therefore, cross-national comparisons based on the total number of intentional homicides recorded must be avoided.

As a matter of fact, our findings are not encouraging for researchers engaged in comparative criminology. In this respect, we can imagine a few different ways of dealing with the fact that crime statistics are social constructs and that each society has its own special way of constructing them. The first possible approach is to replace comparisons of recorded crime rates with comparisons of victimization surveys and self-reported delinquency studies conducted with the same questionnaire and the same methodology. A second possibility would be to combine different crime measures. For example, data from victimization surveys and police, conviction, and correctional statistics can be combined through the computation of a series of indexes for each country, which, in turn, can be compared across countries [Farrington, Langan, and Tonry, 2004]; or national crime statistics can be combined with victimization surveys by weighting data according to the percentage of offenses reported to the police [Aebi, Killias, and Tavares, 2002]; or different crime measures can be combined in an index, as the one developed by HEUNI, the European Institute for Crime Prevention and Control, affiliated with the United Nations [Aromaa and Joutsen, 2003]. Nevertheless, the validity of such indexes has not been established yet. In particular, the combination of such collections of international crime statistics as the *European Sourcebook*, Interpol's *International Crime Statistics*, or the *United Nations Survey on Crime Trends and Criminal Justice Systems* presents the problem

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that all these collections are based on the same national crime statistics, which explains why their crime rates are usually correlated [see the correlations found by Bennett and Lynch, 1990; Howard and Smith, 2003]. However, the process of data validation introduced in the *European Sourcebook* [2003:16–18] has improved the quality of the data included in that collection and explains why the correlations are not perfect [Aebi, Killias, and Tavares, 2002]. A third alternative would be to restrict the use of crime statistics to comparisons of crime trends only, though in this case the researcher must check for eventual modifications of the counting rules applied during the period studied [Aebi, 2004; von Hofer, 2000; Killias and Aebi, 2000]. The fourth one would be to restrict comparisons to countries applying similar statistical counting rules, but taking into account that the similarity must apply to all rules and not only to the one regarding the moment when data are collected for statistics; for even among countries collecting statistics at the same time, there are remarkable differences in crime rates that cannot be explained by substantive factors only. The fifth possibility would be to weigh crime rates according to the statistical counting rules of each country, but doing so is not yet feasible because we still do not know the exact percentage of the crime rate that is explained by the statistical counting rules. The real solution would be to introduce more detailed crime statistics—such as the extremely detailed ones used in Sweden—in every country. Until that moment arrives, our analysis suggests that any cross-national comparison of recorded crime rates should pay special attention to the issue of the statistical counting rules applied in each country.

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Crime and Criminality

III

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9 Transnational Environmental Harm and Eco-Global Criminology

ROB WHITE

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9.1 Introduction

Contemporary discussions of transnational environmental crime engage a wide range of issues [Hayman and Brack, 2002; Elliot, 2007; White, 2008a]. Among the topics under scrutiny are such phenomena as the following:

- Illegal transportation and dumping of toxic waste
- Transportation of hazardous materials (e.g., ozone-depleting substances)
- Illegal traffic in real or purported radioactive or nuclear substances

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- Proliferation of "e-waste" generated by the disposal of tens of thousands of computers and other equipment
- Safe disposal of old ships and airplanes
- Local and transborder pollution that is either systematic (related to location of factories) or accidental (e.g., chemical plant spills)
- Biopiracy, in which Western companies usurp ownership and control over plants developed using traditional methods, often involving indigenous peoples in the Third World
- Illegal trade in flora and fauna
- Illegal fishing and logging

The aim of this chapter is to unpack these diverse areas of legislative, political, and academic interest in order to clarify and categorize the different approaches to, and types of, harm associated with the environment. This is done primarily through the lens of green, or environmental, criminology.

Broadly speaking, *green criminology* is concerned with criminologists' study of environmental harm, environmental laws, and environmental regulation [White, 2003]. Insights provided by criminology on these questions are useful in their own right, as well as highlight the importance of working in multidimensional ways.

For example, the development of green criminology over the last 20 years or so has led to new interests, new conceptualizations, and new techniques of analysis [White, 2005, 2008a; South and Beirne, 2006; Beirne and South, 2007]. This is because there is increasing acknowledgment of the problem of environmental degradation and destruction, whose relevance to traditional criminological concerns social injury and social regulation. There is also greater awareness of the interconnectedness of social and environmental issues in such matters as poverty, health, indigenous peoples' rights, exploitation of nonhuman nature, corporate business misdealings, and state corruption. In many instances, such matters may be seen as inseparable. Moreover, there is recognition of the need for multidisciplinary approaches to the study of environmental harm, with cooperation between experts in many different fields. Expertise can include traditional and experiential knowledge associated with culture and livelihood (such as that of indigenous peoples and farmers), as well as such specialist areas as law, police studies, political science, zoology, biology, philosophy, sociology, and chemistry.

These kinds of observations and interrelationships are forcing many of us to rethink the social and natural universe and to reconceptualize the relationship between humans and nature in ways that accord greater weight to the nonhuman when it comes to assessing such issues as environmental harm. In practical terms, this also translates into new and overlapping domains of consideration within green criminology itself—reflecting varying degrees of

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interest in transgressions against humans, against environments, and against nonhuman animals [White, 2008a].

The chapter begins by discussing three approaches to the study of environmental harm [see also White, 2008b]. These are the conventional criminological, the ecological, and the green criminological approaches. The conceptualization of harm is crucial in shaping the specific ways in which the nature-human interface is to be understood. Accordingly, it is also vital to the development of what are deemed to be suitable strategies and policies designed to forestall or minimize environmental harms and transgressions against nature.

The second part of the chapter briefly charts the link between environmental harm on a global scale and the nature of contemporary capitalism. The dominant world mode of production—capitalism—is at one and the same time the leading force behind much of the planet's degradation and environmental woes. In part, this is explored and illustrated by consideration of how capitalism, as a system, involves the transformation of nature itself, with certain social and ecological consequences.

The next section provides discussion of the *transnational*. It describes various ways in which criminologists have approached crimes and harms that go beyond conventional street crimes and those bound by national or regional borders. This is followed by a brief survey of pressing ecological issues that increasingly demand a criminological reading and response, including such issues as climate change, pollution and waste, and problems related to biodiversity.

The chapter concludes with a few notes on the tasks ahead for the development of a critical criminology that is truly global in scope. The urgency behind the development of an eco-global criminology will increase in the coming years as the threats to environmental well-being intensify. This chapter provides testament to that urgency.

9.2 Conceptualizing Environmental Harm

A basic premise of green or environmental criminology is that we need to take environmental harm seriously and that in order to do this, we need a conceptualizetion of harm that goes beyond conventional understandings of crime [Beirne and South, 2007].

In the first instance, the concern is to highlight destructive and damaging human activities that warrant greater attention than hitherto has been the case in criminology. There are, already, a plethora of laws and conventions that deal with environmental crime and harms. Yet, until recently, very little criminological attention has been given to analysis of how these are actually working. The time to act in this area is now well and truly upon us,

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especially since the environment more generally is politically, socially, and economically of such huge importance. The planet as a whole is under threat, and criminology is implicated in its future ecological well-being.

In the second instance, if ecological (and social and economic) welfare is to be maximized, then we need to expand our notions of what actually constitutes environmental crime. Harm, as conceived by critical green criminologists, for example, demands more encompassing definitions than those offered by conventional law and mainstream criminology. This is because some highly ecologically destructive activities, such as clear-cutting old-growth forests, is quite legal; whereas more benign practices, such as growing hemp (an extremely strong fiber), is criminalized.

When criminalization occurs, it often reflects human-centric notions of what is best (e.g., protection of legal fisheries, legal timber operations), in ways that treat nature and wildlife simply and mainly as resources for human exploitation. It is about private property, business interests, monopoly capitalism, and sustainable economic development. The intrinsic value of specific ecological areas and species tends to be downplayed or ignored.

Nevertheless, in recent years, greater legislative and judicial attention has been given to the rights of the environment per se, as well as to the rights of certain species of nonhuman animal to live free from human abuse, torture, and degradation. This attention reflects both the efforts of eco-rights activists (e.g., conservationists) and animal rights activists (e.g., animal liberation movements) in changing perceptions and laws in regards to the natural environment and nonhuman species. It also reflects the growing recognition that centuries of industrialization and global resource exploitation are now rapidly transforming the very basis of world ecology; global warming threatens us all, regardless of where we live or our specific socioeconomic situation.

Green criminology occupies that space between the old, traditional concerns of criminology, with its fixation on working-class criminality and conventional street crime, and the vision of an egalitarian, ecologically sustainable future, where the concern is with ecological citizenship, precautionary social practices, and intergenerational and intragenerational equity. This means that green criminology necessarily studies the contours of present-day sectional social interests, particularly in relation to how ruling-class interests are manifested in the transnational corporation. As such, it tries to interpret and understand why it is that institutional definitions of, as well as responses to, harm tend to reflect the interests and perspectives of the powerful, to the detriment of global ecological health.

The barriers to, and prospects of, a more ecologically balanced world are thus interwoven with powerful social interests and contesting what matters when it comes to change and transformation. Differences in the conceptualizations of environmental harm reflect, to some degree, differences in

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social position and lived experience (i.e., issues of class, gender, indigeneity, ethnicity, and age). They are also mired in quite radically different paradigmatic understandings of what constitute nature and human interests (i.e., business, science, humanities, aesthetics, and philosophy).

9.2.1 Three Approaches to Environmental Harm

Our present concern is with how environmental harm has been conceived in relation to legal, ecological, and justice criteria. Its definition is, in fact, associated with quite diverse approaches to environmental issues, stemming from different conceptual starting points.

9.2.1.1 Conventional Criminological Conceptions of Environmental Harm

Although not commanding great attention within criminology generally, the study of environmental crime has nonetheless attracted some interest from sociolegal scholars. Issues of pollution and illegal disposal of toxic waste, among others, have generated various legal and law enforcement responses, including the development of environmental protection agencies. Local and national interest in environmental issues, including specific incidents and harms (e.g., Love Canal in the United States) have further led researchers to undertake specifically criminological investigations of such harms [Situ and Emmons, 2000].

The post–World War II period has seen major growth in the internationalization of treaties, agreements, protocols, and conventions in relation to environmental protection and with respect to the securing of environmental resources. Nation-states have in recent years been more interested in taking governmental action on such matters, since many environmental concerns pertain to national economic interests.

In a nutshell, conventional criminological conceptions of environmental harm tend to be based upon legal conceptions of harm as informed by laws, rules, and international conventions. The key issue is one of legality and the division of activities into legal and illegal categories. Typically, from this perspective, environmental crimes include such matters as

- *Illegal taking of flora and fauna*, including such activities as illegal, unregulated, and unreported fishing; illegal logging and trade in timber; and illegal trade in wildlife
- *Pollution offenses*, which relates to such issues as illegal dumping and air, water, and land pollution associated with industry
- *Transportation of banned substances*, which refers to illegal transportation of radioactive materials and the illegal transfer of hazardous waste

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Many such offenses are acknowledged in both domestic legislation and by international agreements. The transboundary nature of environmental harm is evident in a variety of international protocols and conventions that deal with such matters as the illegal trade in ozone-depleting substances, the dumping and illegal transportation of hazardous waste, trade in chemicals defined as persistent organic pollutants, and illegal dumping of oil and other wastes in oceans [Hayman and Brack, 2002].

What makes these activities problematic is that they are deemed illegal. It is breaking the law that is at the center of conventional criminological concern.

9.2.1.2 Ecological Conceptions of Harm

By contrast, we can explore a different kind of approach to environmental harm. In this instance, the main focus and interpretative lens is that of ecology. The United Nations Environment Programme provides a classic illustration of this approach [UNEP, 2007]. In this framework, harm is conceived in terms of ecological well-being and holistic understandings of interrelationships between species and environments. The key issue is that of sustainability and, from the point of view of ecological sustainability, the division of social practices into benign and destructive.

The last four decades or so have seen much greater international cooperation and sharing of knowledge among scientists from many different areas of scientific endeavor. One result of these efforts at collaboration and synthesis is a better sense of global ecological health. This is well documented, and baseline data are now available with which to measure the impact of human activity on all types of life on the planet. Basically, the message is that the human ecological footprint is too big to sustain us, as well as everything else, for much longer into the foreseeable future.

In succinct terms, an ecological perspective, as demonstrated by the UN Environment Programme, sees the world in terms of three areas of harm:

- *The problem of climate change*, in which the concern is to investigate activities that contribute to global warming, such as the replacement of forests with cropland
- *The problem of waste and pollution*, in which the concern is with activities that defile the environment, leading to such phenomena as the diminishment of clean water
- *The problem of biodiversity*, in which the concern is to stem the tide of species extinction and the overall reduction in species through application of certain forms of human production, including the use of genetically modified organisms

As with the earlier approach, ecological understandings of harm view these matters in essentially transboundary terms; there is worldwide transference

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of harms. The bottom line is that, regardless of legal status, action must be taken now to prevent harms associated with global warming, further pollution and waste generation, and threats to biodiversity. The imperative is ecological, not legal, and the goal is human survival.

9.2.1.3 Green Criminological Conceptions of Harm

The advent of a green or environmental criminology was signaled by work undertaken in the early 1990s that highlighted environmental issues as being of significance to criminology [Lynch, 1990]. A small but dedicated and growing band of criminologists has formed a loose international network of researchers, scholars, and activists whose brief is to think critically about environmentally related issues.

From this perspective, environmental harm is best seen in terms of justice based on notions of human, ecological, and animal rights and egalitarian concerns. The key issue is weighing the different kinds of harm and violation of rights within a broad *eco-justice framework* and stretching the boundaries of conventional criminology to include other kinds of harm than those already deemed illegal.

Within green criminology, three broad approaches to justice have been identified, each with its specific conceptions of what is harmful [White, 2008a]:

- *Environment rights and environmental justice*, in which environmental rights are seen as an extension of human, or social, rights so as to enhance the quality of human life now and into the future
- *Ecological citizenship and ecological justice*, in which ecological citizenship acknowledges that human beings are merely one component of complex ecosystems that should be preserved for their own sake based on the notion of the rights of the environment
- *Animal rights and species justice*, in which environmental harm is constructed in relation to the place of nonhuman animals within environments and with their intrinsic right to not suffer abuse, whether this be one-on-one harm, institutionalized harm, or harm arising from human actions that affect climates and environments on a global scale

For the green criminologist, the biggest threat to environmental rights, ecological justice, and nonhuman animal well-being are system-level structures and pressures that commodify all aspects of social existence; that are based upon the exploitation humans, nonhuman animals, and natural resources; and that privilege the powerful minority over the interests of the vast majority. Those who determine and shape the law are very often those whose activities need to be criminalized for the sake of planetary well-being. Environmental

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harm is thus intrinsically contestable, both at the level of definition and in terms of visions of what is required for desired social and ecological change.

Table 9.1 summarizes the basic propositions about the nature of environmental harm that we have been discussing. There are important areas of overlap and synergy between the three approaches to environmental

Table 9.1 Three Approaches to Conceptualizing Environmental Harm

Conventional Criminology

The key issue is that of legality and the division of activities into legal and illegal categories. This involves legal conceptions of harm as informed by laws, rules, and international conventions.

- Illegal taking of flora and fauna. This includes such activities as illegal, unregulated, and unreported fishing; illegal logging and trade in timber; and illegal trade in wildlife.
- Pollution offenses. This relates to such issues as illegal dumping and air, water, and land pollution associated with industry.
- Transportation of banned substances. This refers to the illegal transportation of radioactive materials and the illegal transfer of hazardous waste.

Ecological Perspectives

This approach involves the search for ecological well-being and a holistic understanding of interrelationship between species and environments. The key issue is sustainability and, from the point of view of ecological sustainability, the division of social practices into benign and destructive.

- Problems of climate change. The concern is to investigate those activities that contribute to global warming, such as the replacement of forests with cropland.
- Problem of waste and pollution. The concern is with those activities that defile the environment, leading to such phenomena as the diminishment of clean water.
- Problem of biodiversity. The concern is to stem the tide of species extinction and the overall reduction in species through application of certain forms of human production, including the use of genetically modified organisms.

Green Criminology

This approach involves conceptions of justice based upon notions of human, ecological, and animal rights and egalitarian concerns. The key issue is weighing different kinds of harm and violation of rights within the context of an eco-justice framework.

- Environment rights and environmental justice. Environmental rights are seen as an extension of human or social rights, so as to enhance the quality of human life, now and into the future.
- Ecological citizenship and ecological justice. Ecological citizenship acknowledges that human beings are merely one component of complex ecosystems that should be preserved for their own sake based on the notion of the rights of the environment.
- Animal rights and species justice. Environmental harm is constructed in relation to the place of nonhuman animals within environments and their intrinsic right to not suffer abuse, whether this be one-on-one harm, institutionalized harm, or harm arising from human actions that affect climates and environments on a global scale.

Source: After White, R., The criminalisation of environmental harm. *Criminal Justice Matters*. London: Centre for Crime and Justice Studies, King's College, 2008b.

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issues. Such activity as illegal fishing, for example, is of as much concern to the conventional criminologist as it would be to the marine scientist and the green criminologist. But for the latter two perspectives, so too would be such harms associated with fish farms as spread of infections and use of carcinogenic substances to ward off fungi among penned fish populations. Indeed, the distinction between sustainable and nonsustainable is increasingly important in terms of how harm is being framed and conceived. Yet, as green criminology in its various strands indicates, the notions of legal versus illegal and sustainable versus nonsustainable themselves need to be interrogated from the point of view of eco-justice. This takes us into the realm of eco-philosophy and the value of living and nonliving entities as much as into the practical determination of how best to conceptualize harm [see White, 2008a].

There are, then, a number of intersecting dimensions that need to be considered in any analysis of specific instances of environmental crime. These include consideration of who the victim is (human or nonhuman), where the harm is manifest (global through to local levels), the main site in which the harm is apparent (built or natural environment), and the timeframe within which harm can be analyzed (immediate or delayed consequences). Many of the key features pertaining to environmental harm are inherently international in scope and substance.

Indeed, the nature and dynamics of environmental harm are such that discussions surrounding definitions, deliberations, and typologies will continue. While these discussions are crucial to informing our thinking in the here-and-now about environmental issues, work undertaken in this area also conveys a sense of urgency and priority vis-à-vis preventing harm. Regardless of disputes and contested ideas, there is ample documentation of environmental harm across many different domains of human activity.

9.3 Transforming Nature

While nature has a force and power of its own, it is nonetheless clear that humans have a special responsibility when it comes to issues of environmental harm. As this author has observed elsewhere,

> humans are responsible for much of the destruction of ecological systems and, as such, are the key agents of environmental change in the contemporary time period. There may well be a tango between humans and their environments but the dance tends to strongly reflect how humans as a whole transform their immediate environments for their own purposes. The net result is to the detriment of both human and nonhuman, but the causal force for environmental degradation is ultimately human. This is not to deny post-human observations on the powerful shaping of human society by "nature" and natural phenomena (such as river systems, burning forests and so on). But at a gross, historical level it is what humans do *en masse* that reshapes

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> landscapes, pollutes air, water and soil, leads to species decline among plants and animals, and changes the content of the atmosphere and the level of the seas. The moral responsibility for this lies with us humans. [White, 2007:42]

Responsibility can, to some extent, be shunted down to the level of the individual. How individuals live their lives involves their specific relationships with those around them, including environments and nonhuman animals. However, analysis of broad trends indicates that it is *systemic imperatives* and *historical transformations* that ultimately shape what it is that individuals do in and with their lives and their environments.

One method of understanding human interventions vis-à-vis the environment is to consider physical- and science-based assessments of human impact in particular areas [UNEP, 2007]. For example, the human factor can be analyzed in terms of collective changes over time in such areas as

- Land use
- Resource extraction
- External inputs (fertilizers, chemicals, and irrigation)
- Emissions (pollutants and waste)
- Modification and movement of organisms

The drivers behind how these interventions are manifest in specific terms include such factors as

- Demographics
- Economic processes (consumption, production, markets, and trade)
- Scientific and technological innovation
- Distribution pattern processes (inter- and intragenerational)
- Cultural, social, political, and institutional processes (including production and service sectors)

In this type of interpretive framework [e.g., UNEP, 2007:xii], however, the environmental changes taking place and their impacts on human well-being tend to be abstracted from discussion of global political economy and the realpolitik of transnational capitalism.

Generally speaking, we are provided at a descriptive level with extensively detailed documentation of social and environmental change. Theory, where this is evident, is by and large related to scientific conceptualization of cause and effect in specific discipline areas (relating to, for example, atmospheric analysis or analysis of ocean currents or crop yield analysis). The overall interpretive scheme tends to evade too much attention on, or close scrutiny of, social division. Reference is usually made in very broad descriptive terms—as in the divide between developing and developed countries—insofar as unequal

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circumstances cannot but fail to be quantified and documented in any sort of global environmental audit. Those perspectives that view social inequality as a consequence of the exercise of imperialist power, class domination, and elite privilege are, however, rarely acknowledged. This is not surprising, given that such global assessments generally involve many different nation-states and thus demand a modicum of consensus (and conciliation) before finding their way into the public domain.

Yet, even a cursory examination of dominant world political and economic trends reveals the close link between capitalism as a system and environmental degradation—and transformation—generally. The key features of contemporary global capitalism are schematically represented in Table 9.2.

In essence, competition and waste associated with production in general and its four constituent elements—production, distribution, exchange, and consumption—have a huge impact on the wider environment, on humans, and on nonhuman animals in the form of pollution and toxicity levels in air, water, and land. The same processes pose major threats to biodiversity and the narrowing of species generally and are related both to legal and illegal trade in species, as well as such production-related issues as industrial production and genetically modified organism (GMO) technologies. These threats are summarized in Table 9.3.

Table 9.2 General Features of Global Capitalism

Sphere of Activity
Production—generation of surplus value through production of commodities, use of high technology and biotechnologies, and exploitation of labor
Distribution—transportation of goods and services, retail outlets, storage, roads, railways, bridges, and ships
Exchange—importance of finance capital, increase in credit availability, growth in debt, and pressures to adjust social and economic policy in light of bank demands
Consumption—realization of surplus value, marketing and advertising, product obsolescence, and constant turnover
Trends and Processes
Expansion—growth as progress; accumulation as economic engine; and exploitation of natural resources, nonhuman animals, and people
Privatization—from common property to private property, concentrated ownership and management, and reliance on market mechanisms, rather than government controls
Commodification—transformation of use-value into exchange-value, with more and more aspects of social life and environment commercialized
Massification—mass production, including for niche markets; and simplification of consumables, including foods as well as goods and services, to a narrow range of choices
Globalization—monopolization of control over production through takeovers and mergers worldwide, and penetration of the transnational corporation into local markets and practices

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Table 9.3 Capitalism and the Transformation of Nature

Resource depletion—extraction of nonrenewable minerals and energy without development of proper alternatives, and overharvesting of such renewable resources as fish and forest timbers
Disposal problems—waste generated in production, distribution, and consumption processes; pollution associated with transformations of nature, burning fossil fuels, and using up consumables
Corporate colonization of nature—genetic changes in food crops; use of plantation forestry that diminishes biodiversity; and preference for large-scale, technology-dependent, and high-yield agricultural and aquaculture methods that degrade land and oceans and affect species' development and well-being
Species decline—destruction of habitats, privileging of certain species of grains and vegetables over others for market purposes, and superexploitation of specific plants and animals based on presumed consumer taste and mass markets

At the heart of these production processes is a political culture that takes for granted, but rarely sees as problematic, the proposition that continued expansion of material consumption both is possible and will not fundamentally harm the biosphere. Yet, built into the logic and dynamics of capitalism is the imperative to expand [Foster, 2002]. This expansionary dynamic—the extended reproduction of capital accumulation—has several major implications for the environment.

First, it implies that natural resources are themselves subject to varying processes of commodification; that is, the existing or potential use-values of natural resources may be transformed into exchange-values. Thus, for example, clean drinking water becomes something to be bought and sold among consumers, rather than being a right for citizens. One consequence of commodification is that the distribution of goods and services using market mechanisms is privileged, rather than, for instance, being based upon communal (and ecological) assessments of need. In this context, and somewhat perversely, scarcity of, for example, clean drinking water makes the natural commodity even more valuable to the owner. Scarcity thus equates into high profit levels. Second, the appropriation of nature does not merely involve the turning of it into commodities; it also frequently involves capital actually remaking nature and its products biologically and physically. It has been observed, for instance, that "a precapitalist nature is transformed into a specifically capitalist nature" [O'Connor, 1994:158] in the form of genetic changes in food crops, the destroying of biological diversity through extensive use of plantation forestry, and so on. We explore this process in greater detail later.

Basically, production and destruction are interlinked. The raw materials that go into making goods and in the provision of services are fundamentally determined by the producers, not the end consumers. This involves the exploitation of environments and humans and nonhuman animals alike. Similarly, the waste by-products of production and the refuse left over from

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consumption are ultimately determined in the production process itself, according to the dictates of private profit-making interests.

One impact of unsustainable environmental practices is that it puts more pressure on companies to seek out new resources, natural and human, to exploit as existing reserves dwindle through overexploitation and contamination from already produced waste. Nature itself is used as a dumping ground, particularly in the invisible spaces of the open seas and less developed countries. Waste is both an outcome and a driver of the production process.

Simultaneously, the social consequence of no work, no income, and no subsistence livelihood for significant numbers of people worldwide is that waste-producing and toxic forms of production, including recycling, are more likely to be accepted by the vulnerable. The imposition of such is embedded in the wider systemic pressures associated with global capitalism. *Profitability* very often means adopting the most unsustainable practices for short-term gain.

As indicated in Tables 9.2 and 9.3, transforming nature is an essential part of what capitalism as a system does [Foster, 2002]. How it does so is what is of ecological significance as well as being crucial to the substantive well-being of the majority of humans on the planet. The transformations not only capitalistically change nature but also simultaneously alter human relationships and the habitats of humans and nonhumans alike. We can illustrate these processes through reference to specific examples.

- *Cropland expansion*
  Example: "Viewed in a wider historical context, more land was converted to cropland in the 30 years after 1950, than in the 150 years between 1700 and 1850" [UNEP, 2007:86]. The environmental impact is loss of habitat and biodiversity; soil water retention and regulation; disturbance of biological cycle; and increase of soil erosion, nutrient depletion, salinity, and eutrophication. For humans, there is greater exposure to agrochemicals in air, soil, and water.
- *Agricultural biotechnologies*
  Example: The shift from small to large plantations by promoting such techniques as mechanized harvesting, which is based on bioengineered vegetables that all ripen in unison [Athanasiou, 1996]. The reliance upon new techniques, technologies, and equipment fosters the concentration of landholdings into fewer hands, thereby increasing class inequality and threatening traditional cultures.
- *Chemicals in water*
  Example: A U.S. Geological Survey study sampled 139 streams in 30 states and found that 80% of them were contaminated with trace amounts of chemicals commonly found in prescription drugs [Marigza, 2007]. Recent studies are also indicating that exposure to sewage leads

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male fish to change their gender to female in response to chemicals (i.e., female hormones associated with the female contraceptive pill) in river water (in the case of the United Kingdom) and sewage spillouts into the ocean (in the case of the United States) [Cone, 2005; Pyper, 2005].

- *Bovine growth hormone*
  Example: There are increases in productivity associated with injecting dairy cows with bioengineered bovine growth hormone [Athanasiou, 1996]. This is a process, based upon bioscience and mass production principles, that promotes larger herds, rather than small-farm economy, thus leading to a concentration of ownership.
- *Transference of chemicals to the Arctic*
  Example: Inuit populations in the eastern Canadian Arctic and Greenland have among the highest exposures to persistent organic pollutants and mercury from traditional diets of populations anywhere in the world.

> Scientific assessments have detected persistent organic pollutants (POPs) and heavy metals in all components of the Arctic ecosystem, including in people. The majority of these substances are present in the ecosystems and diets of Arctic peoples as a result of choices (such as using the insecticide toxaphene on cotton fields) by industrial societies elsewhere. Contaminants reach the Arctic from all over the world through wind, air and water currents … entering the food chain. [UNEP, 2007:20]

The transformation of nature through the imposition of capitalistic constructions of what is good and productive for the global political economy has dire consequences for environments, humans, and nonhuman animals. A significant feature of these processes and outcomes is that they are global in character. In understanding environmental harm, therefore, it is increasingly essential to view such harm as intrinsically transnational.

9.4 Transnational Environmental Harm

Within criminology in recent years, there has been renewed interest in the idea of global or international criminology [see Pickering and McCulloch, 2007; Larsen and Smandych, 2008]. Table 9.4 provides a summary of the approaches and topical concerns associated with this movement.

For students of transnational *environmental* harm, there are several different ways in which to approach the issues. For example, the idea of globalization incorporates consideration of transnational harms, processes, and agencies that span the globe. The concept implies that there are universal effects (e.g., climate change) that require united responses worldwide.

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Table 9.4 Studying Transnational Crime

Title	Substantive Area of Study
Comparative criminology	The nature of the crime problem in countries around the world
Transnational criminology	Cross-border forms of crime, such as drug trafficking, arms trafficking, human trafficking, and money laundering
International criminology	Crime specifically recognized widely across nations as crimes against humanity, such as genocide
Global criminology	How globalization and its consequences cause harm, such as structural adjustment policies of the World Bank
Supranational criminology	An encompassing study of international crimes that includes terrorism, war crimes, state crime, and violations of human rights

Source: Drawing from Friedrichs, D., Transnational crime and global criminology: Definitional, typological, and contextual conundrums. *Social Justice* 34, 2, 4–18, 2007.

Comparative criminological analysis is nevertheless still needed, for there are differences among nation-states and regions that must be acknowledged and explained in their own right. As demonstrated later, some countries and regions are, for example, more liable to be polluted than others. A further type of analysis that helps to put things in perspective is broad historical analysis. There are epochal differences in modes of production and global trends (e.g., peasant-based feudal agriculture versus capitalist agribusiness), and it is important to track systemic changes over time within and between different types of social formation.

Investigating transnational environmental crime (e.g., the impacts of ozone depletion and global warming) is relevant to every nation-state on the planet. It is also highly pertinent to understanding the weak links in the international system of political economy, especially failed states, states at war, and those suffering civil unrest, since these are also the most likely to suffer disproportionate environmental degradation and to have the least effective environmental controls and regulatory systems.

We also need to be aware of the problems generated by the so-called growth states, such as China and India, where pollution and environmental issues have gone hand-in-hand with accelerated industrial development. Even in these nation-states, however, environmental reform is increasingly on the political agenda. This is so for several reasons. In some cases, specific environmental problems are now simply too dire to ignore (e.g., tree felling and land use, and lack of clean drinking water). In other instances, if the problem crosses international borders and can no longer be ignored by authorities in neighboring countries (e.g., air pollution as a result of fires), then action may be foisted upon the originating country. In another example, where there is growth in an affluent middle class as a result of economic

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growth and development, there is also, usually and eventually, a call to limit environmental destruction. Ecological consciousness is often a sign of affluence, not of necessity.

Examination of transnational environmental harm needs to take into account geographical locations of varying environmentally harmful practices. This includes analysis of production (toxic materials), transit points (illegal trade at sea, on land, and in particular regions), and end points (waste dumping). A global mapping of harmful practices can serve to provide useful insights into how harm is transferred around the planet and ultimately who or what is responsible for which kinds of harm.

Simultaneously, the combined effects of human transformations of nature are having repercussions well beyond the local and regional. Thus, "as a result of the growing competition and demand for global resources, the world's population has reached a stage where the amount of resources needed to sustain it exceeds what is available … humanity's footprint is 21.9 ha/person, while the Earth's biological capacity is, on average, only 15.7 ha/person, with the ultimate result that there is net environmental degradation and loss" [UNEP, 2007:202, Box 6.1]. For criminologists, this kind of ecological observation ought to be of major concern, not least of which because if the problems are to be addressed, they will require new systems of categorization of harm, crime prevention, law enforcement, prosecution, sentencing, and restoration.

The next few pages provide brief vignettes of specific kinds of environmental harm. These include major threats to planetary well-being posed by climate change, pollution, and diminished biodiversity. Examples are provided and brief comment made under each heading regarding how broad trends translate into substantive concerns. The idea is to indicate issues and patterns, rather than to provide a sustained analysis of any one particular topic.

9.4.1 The Problem of Climate Change

A key problem identified by the United Nations Environment Programme (UNEP) [2007] is that of climate change. According to UNEP, there are several interrelated dimensions to the problem. These include ozone depletion, climate change linked to various kinds of emissions, and the impact of air pollution on global warming.

Stratospheric ozone depletion can result from

- Industrial production (e.g., ozone-depleting substances, or ODS)
- Agricultural production (e.g., methyl bromide)
- Transportation
- Population

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Climate change can be the result of

- Population (discharges of carbon dioxide)
- Agricultural production (e.g., methane emissions)
- Deforestation
- Electricity production
- Transportation
- Consumption of luxury goods

Air pollution. Here, too, the causes can be manifold:

- Population, especially with increasing urbanization
- Agricultural production (e.g., ammonia and pesticide emissions)
- Increasing frequency of forest fires
- Industrial production
- Electricity production
- Transportation
- Large emissions from traditional biomass (i.e., rural areas)

In large measure, the problem of climate change is directly related to how humans across the globe produce and consume, and distribute and exchange, the fruits of their labor. Again, this is a systemic issue inseparable from global political economy and the institutions and ideologies that drive the capitalist world system. Some efforts have been made to prevent or criminalize the worst aspects of environmental damage associated with this system. Thus, for example, international systems of environmental regulation, as well as a proliferation of laws against pollution, have emerged over the past few decades [White, 2008a]. The adequacy of these, however, is best measured in actual impact, rather than simply by reference to legislative statute or international convention.

One thing is certain, and that is that climate change generally is bound to affect everyone on the planet. Although, to date, the impact of climate change has been felt disproportionately in the developing countries, recent estimates indicate that the more affluent countries of the West are now beginning to experience climate-related disasters [see UNEP, 2007].

Part of the reason that climate change coupled with global warming have become increasingly prominent as political and social issues is that they now touch or affect every person living on the planet. Such unseasonal weather as droughts, extreme weather events as cyclones and hurricanes, and natural disasters as the Indian Ocean tsunami of 2005 bring home the immediate effects of global warming to many millions of people. The longer-term effects, including rising ocean levels, are also not so long term for many peoples living in low-lying countries of the Pacific and Indian oceans. The

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phenomenon of thermal-related deaths in France in August 2003 [Curson and Clark, 2004] and the devastation wrought by Hurricane Katrina in New Orleans in 2005 [Hartman and Squires, 2006] also confirm the nature of the problem for those living in what were previously thought of as less vulnerable geographical regions and more stable affluent societies.

Coping with climate change means dealing with the unexpected. This poses a major challenge for planners, policymakers, regulators, and others tasked with the job of minimizing the potential threats while considering possible solutions. Criminologists, likewise, have a role in these processes.

9.4.2 The Problem of Waste

A second huge area of environmental concern has to do with the problems associated with waste and pollution [White, 2008a]. Some of the more pressing issues include the following:

- Proliferation of e-waste generated by the disposal of tens of thousands of computers and other equipment
- Safe disposal of old ships and airplanes, which likewise contain metals, chemicals, and other contaminants
- Illegal shipping and dumping of hazardous waste materials to countries made vulnerable by weak regulatory or enforcement systems
- Pollution of air, land, and water

Much of the transfer of waste has been from advanced industrialized countries to developing countries. So, too, the most polluted places on earth tend to likewise be developing countries. Meanwhile, hazardous residues and contaminated sludge are most likely to find a foreign home in a Third World country.

A recent conference to discuss the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal highlighted these issues. A key theme of the conference was the dumping of everything, from poisonous chemicals to electronic waste from computers and televisions, into African, Asian, and some Latin American countries [CBC News, 2008; see also Basel Action Network / Silicon Valley Toxics Coalition, 2002]. The world's poorest nations were simply being overwhelmed and could not cope with the huge backlogs of toxic waste sent for disposal by rich countries with tougher environmental laws.

When it comes to the disposal of waste, the distinction between legal and illegal is increasingly irrelevant from the point of view of human well-being and health, much less from concern about the impact on local environments. For example, according to the United Nations, about 20 million to 50 million

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tons of e-waste are generated worldwide annually [UNEP, 2006]. The waste contains such toxins as lead and mercury or other chemicals that can poison waterways if buried or release toxins into the air if burned. As mentioned, much of this waste ends up as transfers from rich countries to poor. Old computers and mobile phones, for instance, are often not declared as waste but shipped abroad as material for repair or recycling, according to bills of lading. Much of it ends up in Nigeria, where it is burned in huge garbage dumps [Lambrecht, 2006].

Although the developing countries are frequently host to both legal and illegal hazard-producing activities and wastes, no country in the world is immune from these problems. We might consider, for example, the kinds of cross-border environmental crimes that beset European countries. These are indicated in Table 9.5.

We can add to the list of transborder problems the threats to health posed by smog and, more generally, indoor and outdoor pollutants. These have been shown to have a major impact on human health and well-being, and the negative health consequences are apparent in both developing and more developed countries [UNEP, 2007:55]. Air pollution also adversely affects agriculture, among other things.

9.4.3 The Problem of Biodiversity

Genetic manipulation and species regulation have long been a concern of humans. Indeed, throughout our history, humans have engaged in many different types of animal husbandry and plant usages that have, over time, shaped the contemporary living planet. A wide range of issues have emerged in recent times that are radically, and quickly, altering the type and extent of species worldwide. In part, this can be explained in terms of two broad social processes, one relating to biopiracy, and the other to biosecurity [see White, 2008a].

Table 9.5 Examples of Transborder Pollution Incidents in Europe

Country	Description of Transborder Pollution Incident
Austria	Water pollution case with Slovenia
Belgium	Illegal transportation of waste
Denmark	Illegal transborder shipment of waste and oil spills
Finland	River pollution from Finland to Russia
Germany	Waste disposal, water pollution, and import of nuclear materials
Italy	Sinking of 80 ships with radioactive waste
The Netherlands	Import of household waste with export to Third World countries

Source: Drawing from Faure, M., and G. Heine, *Criminal enforcement of environmental law in the European Union*. Copenhagen: Danish Environmental Protection Agency, 2000.

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9.4.3.1 Biopiracy

Biopiracy involves three general areas:

- Privatizing knowledge through patents on indigenous knowledge, plants, and the like
- Engaging in agriculture imperialism with GMOs
- Stopping reproduction by using terminator technologies

Biopiracy is linked to exploitation of Third World resources and indigenous peoples and knowledge. Under the banner of free trade and the global, competitive commons, the race to patent features is among the activities of many transnational companies. Effectively, this represents the private appropriation of knowledge and techniques that have been developed by collectivities over many years of agricultural practice. Thus,

> biopiracy may be defined as the unauthorized commercial use of biological resources and/or associated traditional knowledge, or the patenting of spurious inventions based on such knowledge, without compensation. Biopiracy also refers to the asymmetrical and unrequited movement of plants and TKUP [traditional knowledge of the uses of plants] from the [global] South to the North through the processes of international institutions and the patent system. [Mgbeoji, 2006:13]

As explained by Mgbeoji [2006], corporate interests have used two methods to take what they want: institutional and juridical mechanisms (e.g., patents) and gendered and racist constructions of non-Western contributions to plant development and use (e.g., traditional methods versus scientific).

> Most important, the legal and policy factors that facilitate the appropriation of indigenous peoples' knowledge operate within a cultural context that subtly but persistently denigrates the intellectual worth of traditional and indigenous peoples, especially local women farmers. Cultural biases in the construction of knowledge provide the epistemological framework within which plant genetic resources developed by indigenous peoples are continually construed as free-for-all commodities—commodities that are just waiting to be appropriated by those with the cunning and resources to do so. [Mgbeoji, 2006:6]

Many contemporary environmental harms are related not only to questions of ownership and control as such but also to how the basic means of life of humans are being reconstituted and reorganized through global systems of production. For example, the "globalization of food production and manufacture and the use of new technologies and chemicals in farming and food processing have created a variety of risks to humans, nonhuman

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animals, the environment and health" [Croall, 2007:206]. In many cases, we still do not know the longer-term effects of new developments in the food area.

What is happening to food generally is symptomatic of how commodification is taking place in regard to all aspects of human life and in all parts of the globe. The global political economy of GMOs provides a case in point, insofar as the promotion of GMOs by large transnational corporations has continued apace, regardless of serious reservations being raised about significant potential risks to human health and safety, antibiotic immunity, and contamination of the environment [Walters, 2004, 2005].

Furthermore, the introduction of terminator technology into seeds means that after one season, it is not possible for the plant to reproduce. This ensures that where such GMO seeds are utilized, the farmer must, each year, purchase new seeds (from the transnational company provider, of course). They can no longer be self-reliant or hope to establish their own autonomous farming practices. They are necessarily locked into a cash-nexus arrangement with those who will from now on control what is produced on their land and how it is produced.

Such developments ultimately lead to reliance upon fewer species of plant and of animal. They involve the exploitation of indigenous peoples and traditional knowledge and lead to the diminishment of such communal knowledge in the public domain. The transformation of genetic material through science and biotechnology also tends toward homogenization of species composition, for it is more profitable to reduce variety at the same time as increase quantitative productivity with the "winners." The overall result is an attitude of "fewer species is better" (and more profitable), especially if control over these is vested in private hands.

9.4.3.2 Biosecurity

The topic of biosecurity encompasses the following areas of concern or risk:

- Oversimplification of species
- Free-trade consequences
- Illegal activity and social impacts

Biosecurity is linked to the preservation of advantages within specific geographical domains that preclude competition from the outside. The threat is not only from foreign business interests but also from potential losses associated with lack of species variety and diversity.

Ironically, one of the greatest threats to biosecurity is, in fact, the industrialization of agriculture (incorporating the use of seed and other patents), since this is one of the greatest causes of erosion of plant genetic and species diversity. This issue is reflected in the following observation: "Today, a mere

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four crops account for two-thirds of the calories humans eat. When you consider that humankind has historically consumed some 80,000 edible species, and that 3,000 of these have been in widespread use, this represents a radical simplification of the food web" [Pollan, 2007:47]. In other words, there is a tendency toward monoculture, since uniformity means ease of cultivation and harvest, which translates into higher profit. However, the simplification of production, in turn, generates potential problems.

> One consequence of the erosion of plant genetic diversity is that the capacity of the economically preferred plants to resist pests and diseases is compromised. The marketability of plant produce is not necessarily coterminous with the inherent superior quality of the plants to be marketed or selected for mono-cropping. Given the potential utility of plants that market forces may erroneously dismiss as economically useless, the short-sighted depletion of the plant genetic pool can be both costly and dramatic. [Mgbeoji, 2006:181]

The privileging of the free trade ideology in constructing biosecurity policy and practice puts countries further at risk [White, 2008a]. That is, removing stringent, scientifically determined constraints on the movement of plant and animal matter across borders in favor of more loose regulation that is premised upon facilitating free trade in commodities means greater likelihood that alien species, diseases, and viruses will find fertile ground. Diminished genetic diversity compounds the potential catastrophe.

The narrow interests of transnational corporations, especially agribusiness, are also reflected politically in how some governments are responding to such issues as climate change. The push toward biofuel production, for example, reflects the interests of large agricultural businesses, which can patent the monocultural crops designed as "energy crops." Restoring and protecting trees, while ecologically more sound and efficient, are less profitable [Munro, 2007]. Moreover, keeping the ball in the court of the "new technologies" of GMOs means less attention to the devastation wrought by legal and illegal logging, which is likewise profitable for the businesses and organized criminal syndicates involved in both First and Third World countries.

While legal practices can be conceptualized in terms of biopiracy, illegal trade in plants and wildlife represents its own kind of threat as well. The threat here is both to biodiversity in relation to endangered species and to the economic viability of such industries as agriculture, forestry, and fisheries. Whether contaminants enter the food production system through illegal importation of banned organic substances or the legal use of patented materials, the result will be the same—devastation to the basic requirements of life.

The sheer scale of illegal activity can also have a devastating impact. For example, an estimated 1.0–3.4 million metric tons of wild meat (bushmeat) are harvested annually from the Congo Basin. This is believed to be

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six times the sustainable rate [UNEP, 2007:169]. Speaking about the situation in Honduras in the mid-2000s, Duncan Brack, of the London-based Royal Institute of International Affairs, noted, "Illegal logging, fishing, and wildlife trade are almost invariably carried out at unsustainable levels, running down the natural capital from which poor people derive their livelihoods" [quoted in Schmidt, 2004:A97]. Transnational environmental crimes of this kind thus negatively impact local workers and residents, as well as animals and environments.

The economic forces that underpin issues relating to biopiracy and biosecurity are precisely the forces that work most assiduously against biodiversity. As such, they operate against the interests of humans, environments, and nonhuman animals. The consequence of such practices are decreased resilience amongst species, increased susceptibility to disease, the introduction of invasive alien species, and extinctions as a result of overexploitation.

In combination, present trends relating to climate change, waste, and biodiversity reinforce each other and constitute massive threats to the world as we know it today. Recognizing the existing harms and being sensitive to potential harms, as well as documenting the forces behind them, are essential if the adverse consequences are to be adequately addressed.

9.5 The Tasks Ahead

The central task ahead is to develop an *eco-global criminology*, that is, to take a criminological approach informed by ecological considerations and by a critical analysis that is worldwide in its scope and perspective.

As this chapter has demonstrated, borders do not mean much in the case of many instances of environmental harm, especially those pertaining to contamination, pollution, and the movement of materials or particles through water and air. Global capitalism provides a systemic platform from which the transference of harm is made manifest throughout the world. The circulation of commodities and the exploitation of humans, environments, and animals are constituent elements of a mode of production fueled by and reliant on economic growth. Under such a system, the global commons is very much that which is to be carved up for private interests and private profit.

The global ecological situation is unlikely to improve very much, if at all, in the near future. Indeed, there is every chance that things will get much worse before too long. The damage will be felt in the form of extreme weather events, increased competition for dwindling natural resources, outbreaks of disease and viral infections, further extinctions of species, and the continued pressure to trade food for fuel, and the list goes on. One consequence of global trends is an expected upsurge in social conflict.

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Table 9.6 provides a survey of likely areas of conflict in the foreseeable future. The conflicts include those pertaining to diminished environmental resources, the impacts of global warming, differential access and use of nature, and friction stemming from the cross-border transference of harm. The table also indicates some of the countries already implicated in some of these forms of conflict.

The urgency of and need for progressive criminological intervention are illustrated by this charting of emergent social issues related to climate change. Managing social conflict, to say nothing of dealing with egregious incidences of environmental harm, demands great resolve, sharpened analytical tools, and high-quality strategic thinking.

Table 9.6 Climate Change and Social Conflict

Conflicts over environmental resources
Example: water—protests against privatization and diminished clean drinking water resources (Bolivia, South Africa, Israel, Palestine)
Example: food—food riots, particularly in relation to grain prices associated with tension between crops for food and crops for biofuel (Mexico, Haiti, Indonesia, Cameroon)
Example: fish—competition between local fishers and commercial and industrial fishers, leading to "war" over specific fisheries (Canada, Spain)
Conflicts linked to global warming
Example: climate-induced migration of peoples—"environmental refugees" (South Pacific Islands)
Example: demographics—population size and profile (such as structural aging) linked to distribution, availability, and carrying capacity of land (China)
Example: loss of territory and border disputes—receding coastlines and desertification (Egypt, Greenland, Canada, Russia, USA)
Conflicts over differential exploitation of resources
Example: indigenous people and biopiracy—theft of plants and indigenous knowledge and techniques under guise of legal patent processes (Brazil, Peru)
Example: subsistence versus industrial production—uses of biotechnology such as GMOs to increase yields beyond the norm and beyond precaution for profit purposes (Zambia)
Example: conflicts over energy supply—related to the concentration of world's hydrocarbon reserves in specific regions (Iraq, Iran, Venezuela)
Conflicts over transference of harm
Example: Cross-border pollution—movement of pollutants through a fluid medium such as water or on air currents (China, Russia, Germany, Hungary)
Example: Transborder movement of toxic waste—corruption of companies and organized crime in redistributing waste to countries of least resistance or to the oceans and deserts of the world (Somalia, Ivory Coast, Nigeria)
Example: Circulation of pollution and waste—such as concentration of plastics in specific geographical locations and planetary sinks (ocean gyres, Antarctic ozone hole)

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Intervention on environmental matters will require criminologists to be part of the policy and implementation process in such areas as framing new laws, instituting environmental law enforcement, developing environmental crime prevention methods, and taking part in environmental regulation. It will also require criminologists to stand apart from the mainstream of political decision making, and to take a stand independent of government interests and corporate gain, especially in public debate over GMOs, the establishment of marine parks, critique of certain forestry practices, and so on. The necessities of the moment mean potentially holding contradictory positions as a criminologist, for example, by working both for and against the state. This is a situation that can be resolved only by having a larger vision of the "good society" on the "living planet," that is, by adopting a moral roadmap by which to navigate the struggles and conflicts accompanying profound social and ecological change.

How we interpret and respond to global developments depend upon how we define *environmental harm*; how we envisage the protection of human, ecological, and animal rights; and how we understand the power and interests that underpin recent trends and issues. For critical environmental criminology, there is no doubt that new typologies of harm have to be developed, new methodologies for global research initiated, and new modes of social control devised if we are to adequately address present issues. The future of criminology is, indeed, bound up with the future of the planet.

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Perpetrators and Victims of Sex Crimes 10

JOACHIM OBERGFELL-FUCHS

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10.1 Introduction

In recent decades a great deal of discussion about sex crimes, and dealing with sex offenders and with victims of sexual assaults, above all rape, has taken place in many countries. Almost every week the media report cruel sex offenses; sometimes it seems that other topics are peripheral to this in the news [e.g., Amann and Wipplinger, 2002]. In some European countries,

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this rising interest has been caused by a small number of severe cases of sexual abuse and murder of children, most sensationally the Dutroux scandal in Belgium. In that case, a number of men abused and murdered children; subsequently, severe investigation faults came to light, with strong ramifications not only in Belgium but also on public opinion elsewhere in Europe. The ensuing discussion not only focused on the sex offenders themselves; it also became dangerous for policymakers because of negligence and failure by office holders.

In Germany, a similar case took place in the summer of 1996 with the Nathalie case, involving a released sex offender who murdered a young girl. Again, it was not only the brutal act of one man that dominated the public discussion, above all the private media, but also the question of how dangerous men were released, even early, from prison. Finally, found guilty were not only the perpetrator but also the prison system, the judges, the forensic experts, and, not least, the policymakers who passed such lenient laws. As a consequence of this case and several others during the following months, the law on sex crimes was drastically changed. In 1997, several harsh new legal provisions were introduced in the German parliament and enacted in 1998. The situation was similar to the case of the sex abuse and murder of Megan Kanka in 1994 in the United States, where a single event and the subsequent public outcry finally led to a complete change in policy practice.

In fact, sex crimes are a malicious combination of sex and crime. Both topics have attracted and repulsed people since the beginning of humankind. Until the mid-twentieth century, sexuality was taboo as a topic of public discussion and even in science. It was the merit of pioneers like Kinsey [1949, 1953], Masters and Johnson [1966], and Shere Hite [1976] to break this taboo and facilitate discussion about this kind of normal human behavior. Since the 1980s, the spread of AIDS has driven home the necessity of talking about sex more frankly; but even in Western societies, there are huge differences in the matter. Whereas in Western Europe sexuality is a more or less common aspect in media and public discussions, even nudity is seen as offensive in much of the United States.

With the rising discussion about sexuality, interest in deviant sexual behavior has also grown. Early on, Kinsey and his colleagues [1949, 1953] showed that deviance from "normal" behavior is quite frequent and that there are large variations in behavior. "Normal" sexual behavior can hardly be defined, and such a definition would be highly dependent on time and region. For example, in Germany homosexual practices, especially among adult men, were treated as a crime until the reform of the criminal law in 1969 (*Grosse Strafrechtsreform*). This reform canceled the culpability of homosexual acts between adult men, but the abolishment of the criminal clause did not occur until 1994. The abolishment was the result of societal and moral development; homosexuality came to be regarded more and more (legally) as

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a variation of normal sexual behavior, and finally the law changed. But this example shows that law and public opinion can be far apart; even now, many people regard homosexuality as deviant.

After publication of the research by the mentioned pioneers on human sexual behavior, uninhibited research on deviant sexuality and sex offenders became more frequent [e.g., Reinhardt 1957; Gebhard et al., 1965; Oliver, 1967]. At the same time, early claims for more protection of the public from sexual offenders increased [see Shultz, 1965]. Until the 1960s—and among the general public even today—sex crime has mostly been considered as forcible rape of women and sexual abuse of children by strangers. To begin with, the women's movement has made a convincing point that sexual offenses most often occur in intimate relationships and that the offenders are frequently well known to the victim [cf. Brownmiller, 1975; Sepler, 1990:73].

Since the 1970s, increased sensitivity about violence against women and children, and a decreased threshold of tolerance for such behavior, can be observed in Germany and elsewhere. Villmow [1977:114], for example, has found that in the 1970s male interviewees assessed rape of a woman only a bit less harshly than the sexual abuse of children. This reflects an enormous change in attitudes toward sex crimes. Only four decades earlier, the sociologist Sauer [1933:614] characterized rape as a "healthy act" and "a ray of hope for a healthy future." In his opinion, there are only minor damages, for the victims and children born as a result of rape are often strong and healthy. Today, such a viewpoint is absolutely inconceivable.

In recent decades, research and discussion have intensified, focusing on women and children as victims. Men once were seen only as potential perpetrators, a situation that has slowly changed in recent years. Generally the research on sex crimes, its victims, and perpetrators has become more nuanced, although the majority of the public, often influenced by the media, still thinks in black-and-white terms.

10.2 The Extent of Sex Crimes

One can hardly estimate the real number of sex crimes. It is the victim who plays the most important role in determining whether or not a sex crime is reported and prosecuted. Kilpatrick, Edmunds, and Seymour [1992] estimated that only 16% of all rapes are reported to the police, a number that refers to the results of dark figure studies. More recent surveys yielded results of about 12% to 15% of women who will experience a rape during their lifetime [cf. Gidycz, Loh, and Rich, 2003]. The prevalence rates of child sexual abuse are quite similar, even though somewhat more varied. Finkelhor [1994] reported in an international survey that about 7% to 36% of all women and 3% to 29% of all men had experienced sexual abuse during

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childhood. This higher percentage among females was confirmed by a more recent meta-analysis, indicating that about 13% of all male children and 30% to 40% of all female children became victims of sexual abuse [Bolen and Scannapieco, 1999].

10.2.1 The Development of Sex Crimes according to Crime Statistics

Most prevalence studies are more or less snapshots of actual situations; for longitudinal data depicting the development of sex crimes, one has to rely on official crime statistics. An exception is the study by Finkelhor and Jones [2004], analyzing four different data sources, covering registered data as well as survey data. Independent of the data source, the results showed a clear downward trend in the sexual abuse of children. However, the authors discussed whether this decline depicts a real crime trend or whether it was the result of changes in the data collection method. A similar decline can be observed in U.S. crime statistics (see Figure 10.1). Since the early 1990s, rates of forcible rape declined from 42.8 offenses per 100,000 inhabitants to 30.9 offenses in 2006.

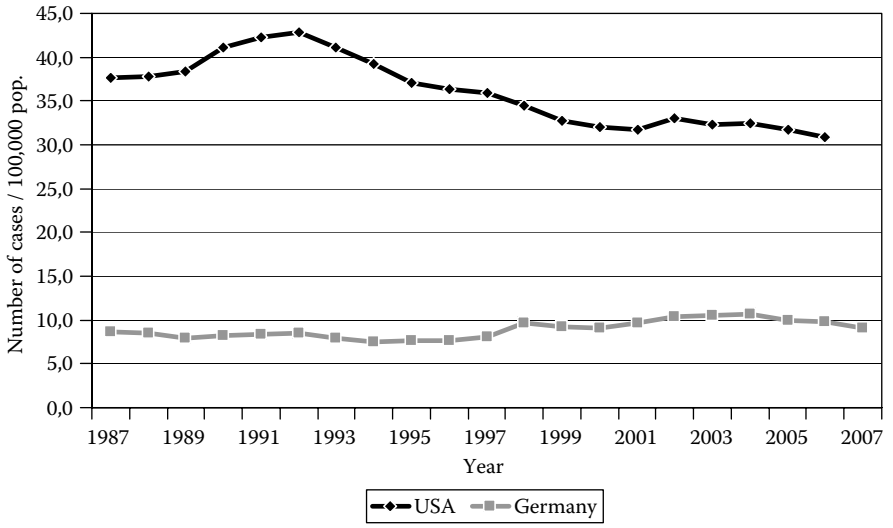


Figure 10.1 Comparison of the number of recorded forcible rapes per 100,000 inhabitants in the United States and in Germany, 1987–2007. (Data from United States: U.S. Department of Justice, Bureau of Justice Statistics. *Sourcebook of Criminal Justice Statistics* Online. http://www.albany.edu/sourcebook/pdf/t31062006.pdf [accessed August 25, 2008]. Data from Germany: Bundeskriminalamt. Polizeiliche Kriminalstatistik. http://www.bka.de/pks/zeitreihen/pdf/t01.pdf [accessed August 25, 2008].)

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In other countries, including Germany, such a decrease did not occur. Here, the number remained quite stable between 1987 (8.6) and 2007 (9.1). This could be attributable to a "bottom-line effect," the rates in the United States being some three to four times higher than in Germany. Such high prevalence allows a greater variability than the already low German rates.

But such differences between countries might also be a consequence of deviations in the particular legal definition of rape. Even within a country, the development in the crime statistics can be and often is influenced by changes in legal definitions.

Among the European states, there are also remarkable differences in the development of police-reported sex crimes. The *European Sourcebook of Crime and Criminal Justice Statistics* (hereafter cited as *European Sourcebook*), established by the Council of Europe in 1996 (with a third edition published), provides data on reported crimes for most European countries since 1990 [*European Sourcebook*, 1999, 2003, 2006]. Therefore, the *European Sourcebook* is an excellent database for longitudinal analyses of reported rapes in Europe. A detailed description of all countries would go far beyond the scope of this chapter, but remarkable developments of some selected countries are presented in Figure 10.2.

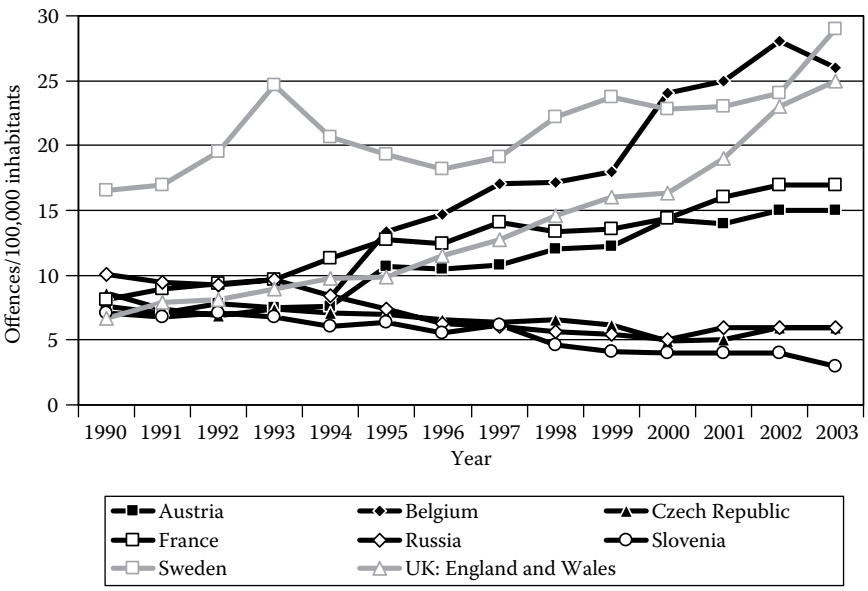


Figure 10.2 Longitudinal development of rape crimes per 100,000 inhabitants in different European countries. (Data from *European Sourcebook of Crime and Criminal Justice Statistics*, 1999, 2003, 2006.)

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The particularly high rate of rape in Sweden is quite remarkable; in the early 1990s, it was about twice as high as in other countries shown in Figure 10.2. Such differences might be a result of legal specifications in the particular country. For example, Grevholm, Nilsson, and Carlstedt [2005] pointed out that the increase after 1998 has been partly the result of legislative changes, but it might also be attributed to an increased readiness to report.

Interestingly, in the early 1990s, the rape rates in most countries seemed to be similar; but since 1995, a different trend started. While the numbers increased in Austria, Belgium, France, Sweden, and England and Wales, they decreased slightly in the Czech Republic, in Russia, and in Slovenia (the latter three in the former Eastern bloc). Such a development in only few countries does not confirm a general hypothesis to the extent that rape has increased in western Europe and decreased in the east. The example of Germany mentioned above shows a different development, and in many other eastern as well as western European countries no remarkable developments have occurred. General trends are hardly observable nor easily interpretable.

Attention should be given to the steep increase in rape in Belgium in the second half of the 1990s. This development might be caused by the reaction of the public and the authorities to the Dutroux scandal. In 1996, Marc Dutroux was arrested for kidnapping, torturing, and sexually abusing at least six girls, two of whom he murdered. Shortcomings in the investigation led to a public outcry, and it can be assumed that sensitivity to sex crimes increased, resulting in higher reporting and recording rates.

A somewhat different approach to comparing longitudinal crime rates involves considering police-recorded victimizations. Such a procedure enables consideration of differential risk factors. Most surveys have shown that younger people have a higher risk of becoming crime victims than do older people. Hence, if the rate of younger people decreases in the general population, as in Germany, crime rates can also be expected to decrease. Therefore, changes in reported crime rates do not necessarily reflect a real development; rather, they may reflect changes in population composition. With gender rates remaining stable over the years, age is the most crucial factor.

Figure 10.3 shows the number of police-registered victims of forcible rape per 100,000 population of the same age group from 1971 to 2007 in Germany. Only the curve of those aged 21 to 60 (the majority of all victims) is similar to the German curve in Figure 10.1, in which group there had been no major change over time. The same can be observed for children under 14 and people over 60. These two groups have a low risk of becoming victims of forcible rape (for the younger group, one has to consider that most sexual incidences are recorded as sexual abuse of children; see later discussion). The highest

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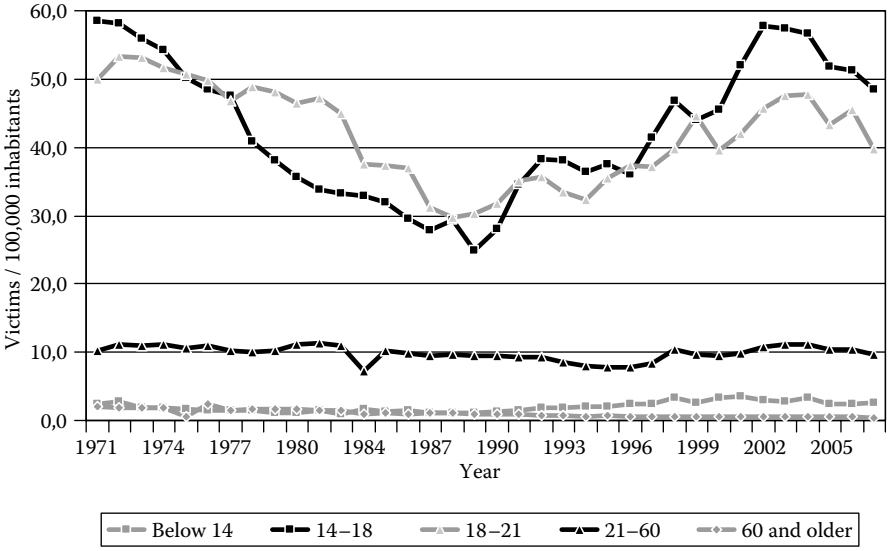


Figure 10.3 Number of victims of forcible rapes per 100,000 inhabitants according to age groups: Germany, 1971–2007. (Data from Bundeskriminalamt. *Polizeiliche Kriminalstatistik*. http://www.bka.de/pks/zeitreihen/pdf/t01.pdf [accessed August 25, 2008].)

risk of becoming a victim of forcible rape exists for people between 14 and 21 years. Interestingly, the number of victims decreased from 1971 to the late 1980s, then it rose again, reaching more or less the level of the 1971 starting point. One can hardly explain the victimization drop of the 1980s. One possibility is that the increase since the late 1980s has been triggered by German reunification and increasing economic and societal problems in the former East Germany. Other possibilities are a change in attitudes toward sexual violence, the increased readiness to file complaints, or the general increase in violent crime since the 1990s. But all these interpretations are no more than speculation.

Figure 10.4 shows an equivalent analysis of the police-recorded trends in child sexual abuse victimizations. Here, the numbers increased from 1971 until 1992, followed by a steep decrease and a more or less wavy pattern in the following years. Finally in 2007, the number (150.3 victimizations per 100,000 inhabitants) was not much higher than the 1971 starting point (126.9). Most interesting is the decrease from 1992 to 1993. This development might be because of the change in the public discussion about child sex victimization. In 1992 a major trial was held in Germany: In 1990 a nursery school teacher had been accused of over 50 instances of child sex abuse. When the case came to public, the media talked about "the incomprehensible case," "Germany's worst." During the investigation, it became obvious that the allegations were false and based on suggestive examinations

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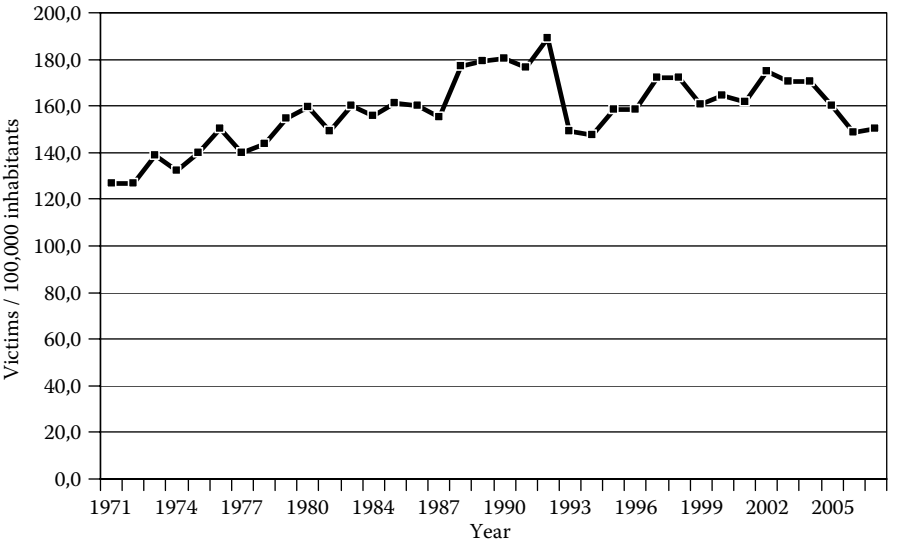


Figure 10.4 Number of victims of child sexual abuse per 100,000 inhabitants below 14 years of age: Germany, 1971–2007. (Data from Bundeskriminalamt. *Polizeiliche Kriminalstatistik*. www.bka.de/pks/zeitreihen/pdf/t01.pdf [accessed August 25, 2008].)

by a forensic expert. Finally, the trial ended with a verdict of not guilty, but it triggered an increasing discussion on the validity of statement analysis and suggestibility [see Fiedler and Schmid, 1999; Steller and Volbert, 1999]. Finally the Bundesgerichtshof, the highest German ordinary court, made a decision on quality standards of statement in forensic testimony [BGH, Urt. 30.06.1999-1 StR 618/98-LG Ansbach]. Besides the final legal decision, skepticism about the credibility of children's statements (a credibility promoted by radical feminists) grew. The results of the false memory movement [see Loftus and Hoffman, 1989; Loftus and Ketcham, 1994; Ceci and Bruck, 1995] became more and more recognized in Germany. Because such allegations have extremely stigmatizing effects on the accused, even if found not guilty, this development probably led to more caution in dealing with such statements.

10.2.2 The Assessment of Sex Crimes in Self-Report Studies

Besides officially reported crimes in national police statistics, self-report studies provide an additional data source and give useful information on the assumably high dark figures. Since the 1960s, victimization surveys have been widely used around the world. Such surveys, supplemented by various analyses, such as on the recording behavior in police stations, led to an estimation of dark figures. These figures are relatively high, even for severe

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crimes like murder [e.g., Rückert, 2000; Scheib, 2002]; recent studies estimated a dark figure of approximately 90% [Kürzinger, 1996; Kury, 2001].

The actual dark figure is widely dependent on the reporting behavior of victims or witnesses. Concerning sex crimes, it can reasonably be assumed that the dark figures are above average. Kapp [2006], for example, mentioned that reported rapes are just "the tip of the iceberg." She estimated that eight out of every nine cases remain unreported. The reasons are manifold. Some victims think that they are, at least partially, responsible for the crime; some are afraid to make their experience public because sex crimes are still a taboo in some places and their reputation might be damaged; others believe that criminal evidence is not sufficient for a conviction. These problems are enhanced by the fact that most sex crimes occur within more or less close relationships. For example, a study on 10,264 women in Germany by the Bundesministerium für Familie, Senioren, Frauen und Jugend [2004a] showed that in 49.3% of the cases, a (former) partner has been the perpetrator, in 19.8% the offender has been a friend or neighbor, in 10.1% he is a relative, and in 11.8% it has been a workmate or a classmate. Only 14.5% of the offenders were unknown, and 22.3% had a nodding acquaintance with the victim (in cases of multiple victimizations during a lifetime, multiple responses were possible). Lodging a complaint in such intimate relationships risks subsequent conflict in social life.

The situation concerning child sexual abuse is even more complicated. Especially when children are very small, complaints can be made only by others to whom the child has "told" his or her experiences. For the child, the criminal investigation additionally bears the risk of a secondary victimization, and some professionals have come to the conclusion that subsequent damages could be so severe that it would be better not lodging a complaint.

Studies have shown that such risks are not far-fetched. Kury, Obergfell-Fuchs, and Würger [2002] presented the results of a study indicating that female victims of rape are seen in a negative light not only by the public but also by the criminal authorities. Subjects were given a curriculum vitae (CV) of a "normal" middle-aged woman. They had to describe this woman by means of a list of adjectives. When the CV included the information "being raped," the woman was clearly assessed more negatively, especially when the additional information indicated a rape in matrimony. Regression analyses have shown that assessment significantly depended on the general attitudes and personality variables of the respondents. Those individuals with more conservative and traditional gender role perceptions tended to degrade the "raped woman" more than others [see also Bridges, 1991; Simonson and Mezydlo Subich, 1999]. The same methodology was used with other samples. Comparable results were found in Slovenia as well as in Japan [see Kury and Yoshida, 2003, 2004], indicating that victims of sexual offenses are still stigmatized. In this regard, rape myths often play an important role (see section 10.2.3 in this chapter).

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10.2.2.1 Methodological Problems in Assessing Sex Crimes by Self-Report Studies

Some methodological problems complicate self-report assessments of the prevalence of sex crimes. One problem is the appropriate wording of questionnaires. On the one hand, the wording should cover the legal definitions of sex crimes in order to get relevant information; on the other hand, it should facilitate the respondents' relating questions to their own experiences. But surveys and related questionnaires are far from uniform. Wipplinger and Amann [2005:22ff.] stated that there are as many definitions as there are authors. Often the prevalence or incidence of sexual victimization is measured together with other types of victimizations, in a general victim survey such as the International Crime Victims Survey (ICVS) [van Dijk, van Kesteren, Smit, 2007], the National Crime Victimization Survey in the United States [Rand and Catalano, 2007], or the British Crime Survey [Kershaw, Nicholas, and Walker, 2008].

But such an assessment is often criticized because it does not offer a sensitive introduction into the emotive topic of rape. Although van Dijk, van Kesteren, and Smit [2007:77] stated that there was no indication that asking for sexual victimization by phone will cause problems, they admit that "measuring sexual incidents is extremely difficult in victimisation surveys, since perceptions as to what is unacceptable sexual behaviour may differ across countries." But not only the mode of data collection plays an important role in getting valid data [cf. Kury, Obergfell-Fuchs, and Würger, 2001]. The questionnaire design also has considerable impact on the answers [cf. Kury and Würger, 1993; Kury, 1994]. Furthermore, a country's composition of ethnic and religious groups might play a role: It can plausibly be assumed that members of traditional religious groups might be more embarrassed by such questions than liberal and less religious persons.

Indeed, there is an influence of questioning on the survey results: Curtis [1976], for example, found that only 54% of all victims who had already reported the incident to the police agreed in a survey that they had been victimized. The study by Fisher, Cullen, and Turner [2000] showed that behaviorally specific screen questions indicated much higher rates of sexual assault than a methodology that uses screen questions like such general victim surveys as the NCVS or the ICVS [see also Fisher and Cullen, 2000].

According to Koss [1993], a victim first has to identify and define an incident as rape. Therefore, the questions of a research instrument have to facilitate remembering the incident, their wording must be understandable by the victim, and the victim must be ready to report what had happened. Finally, the interview must choose the right coding, and data analysis must be correct. For example, Magley and others [1999] found that many female victims of sexual harassment describe the incident but do not define it as a

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sexual assault: "As numerous researchers have found, many women do not label such experiences as sexual harassment, even when they acknowledge them to be offensive, unwanted, or insulting; in contrast with experiential rates frequently reported to hover around 50%, labeling rates remain relatively low" [p. 391]. Such arguments underline the necessity of behaviorally oriented questions in survey instruments so as to avoid mistakable definitions of sexual assault.

Avoiding mistakable definitions was the main idea of Russell's [1982] survey. She operationalized rape by several behaviorally specific questions. Pathbreaking work in the measurement of sexual assault has been done by Koss and Oros [1982], with the development of the Sexual Experiences Survey (SES). By means of 13 given situations, including one direct question as to whether the respondent has been raped or not, the extent and severity of uninvited sexual incidents have been assessed. The questions of this instrument were reworded by Koss and Gidycz [1985] in order to increase the clarity of the terms, to improve communication with interviewees, and to measure a greater range of sexual victimization. The revised version finally consisted of 10 items. Two years later Koss, Gidycz, and Wisniewski [1987] presented a modified version of the SES with embedded colloquial definitions of what they intend to measure (e.g., "sex play" was fondling, kissing, or petting, but not intercourse).

But the work of Koss and others, in order to facilitate valid measurement of sexual victimization, was also criticized. Gilbert [1997] argued that Koss's research has exaggerated the rates of sexual victimization. Some wordings were vague or awkward, and he doubted the validity of the results when respondents affirmed the behavioral operationalization of rape but denied when asked directly if they had been raped. Similarly, Alger and Flanagan [1996] contend that Koss's methodology "may inappropriately inflate estimates of the incidence of sexual harassment."

More recent research, for example, the National Women's Study [Kilpatrick, Edmunds, and Seymour, 1992], also uses behaviorally operationalized items for measuring sexual victimization. In order to avoid confusion about the nature of experiences, they included follow-up definitions to clarify the specific behavior (e.g., Item 49: "Has anyone ever made you have oral sex by using force or threat of harm? Just so there is no mistake, by oral sex, we mean that a man or boy put his penis in your mouth or somebody penetrated your vagina or anus with his mouth or tongue"). A comparable method is used by the National Violence Against Women Survey (NVAW) [Tjaden and Thoennes, 1998a], by the earlier-mentioned National College Women Sexual Victimization Study (NCWSV) [Fisher, Cullen, and Turner, 2000], or by other surveys on sexual victimization outside the United States [e.g., in Germany: Krahé, Scheinberger-Olwig, and Waizenhöfer, 1999; Kury et al., 2004].

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10.2.2.2 Results of Self-Report Studies

It is hardly possible to describe all the surveys of recent decades on sexual victimization in detail. Gelles [1998], for example, mentioned an enormous increase in knowledge and understanding of violence in family and intimate relationships. And "few other areas of inquiry in the field of criminal justice generate such strong feelings and reactions as do child abuse, child sexual abuse, violence against women, elder abuse, and courtship violence" [ibid.:199].

But results, as mentioned, are highly dependent on methodology. One source of information is the particular national crime victimization surveys. For example, the U.S. National Crime Victimization Survey (NCVS) for 2006 showed an impressive sheer number of 272,350 rape and sexual assault victimizations, but this number resulted in a mere rate of 1.1 incidents per 1,000 persons aged 12 and above [Rand and Catalano, 2007]. This is an extremely low rate, even compared with survey results from other countries. The British Crime Survey of 2005/2006 revealed a prevalence rate of sexual assault of 3% for women and 1% for men during a one-year period [Jansson, 2007]. In a French national survey [Tournyol du Clos and Le Jeannic, 2007], 6% of the women between 18 and 59 had experienced at least one sexual victimization in 2005 or 2006, 3.4% outside the home and 3.3% within their household (multiple responses were possible).

The International Crime Victims Survey [cf. van Dijk, van Kesteren, J., and Smit, 2007] also included a question on sexual victimization within a one-year period. Because of the different waves of the ICVS longitudinal survey, comparisons are meanwhile possible for a series of countries. Table 10.1 depicts the results of those countries that participated in at least two waves. However, the rates are quite small. There are alterations between the waves within particular countries. For example, the rate in Sweden has tripled between 1991 and 1995; in Finland the 1991 survey rate is five times higher than that of 1988; and in Japan, the 2003/2004 rate is eight times higher than 1999. On the other hand, the Austrian rate of 2003/2004 is only one-third of 1995, and in the Netherlands there are almost no changes observable. One can hardly interpret these data as reflecting real developments in sexual victimization within a country. Sampling effects might be caused by changes or because of the very small numbers of victims. Also, the floor effect should be considered.

For the United States, the differences between the NCVS and the ICVS are notable. The difference might be attributable to differences in sampling, but most probably the wording of questions is liable to cause discrepancies. Whereas the NCVS asks for "any rape, attempted rape or other type of sexual attack" within a series of other questions concerning violent crimes, the same topic in the ICVS is embedded in a more behavioral context: "People sometimes grab, touch or assault others for sexual reasons in a really offensive way. This can happen either at home, or elsewhere, for instance in a pub, the street, at school, on public transport, in cinemas, on the beach, or at

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Table 10.1 ICVS, 1989–2005: Sexual Assault, One-Year Prevalence Rates, 2003/2004

Country	1988	1991	1995	1999	2003/2004
USA	1.4	0.6	1.2	0.4	1.4
Sweden		0.5	1.5	1.1	1.3
Northern Ireland	0.3		0.5	0.1	1.2
Norway	0.3				0.9
England and Wales	0.3	0.7	0.4	0.9	0.9
Switzerland	0.6		1.2	0.6	0.9
Japan				0.1	0.8
Canada	1.2	1.6	0.9	0.8	0.8
New Zealand		1.3			0.7
Scotland	0.6		0.2	0.3	0.6
Netherlands	0.6	0.7	0.8	0.8	0.6
Poland		1.5	0.6	0.2	0.5
Denmark				0.4	0.5
Austria			1.2		0.4
Germany	1.1				0.4
Finland	0.3	1.5	1.0	1.1	0.4
Belgium	0.5	0.9		0.3	0.4
Italy		0.6			0.3
Estonia		1.4	1.0	1.9	0.3
France	0.4		0.4	0.7	0.3
Portugal				0.2	0.2
Spain	0.6				0.1

Source: van Dijk, J. et al., *Criminal victimization in international perspective*. The Hague: Boom Juridische uitgevers, 2007, 78.

one's workplace. Over the past five years has anyone done this to you? Please take your time to think about it." In the following stage of the interview, the period is limited to 2004. Such a procedure is most likely to produce telescoping effects; that is, a subsequent limitation to one highlighted year increases the chance of "transferring" most incidents into this particular time period.

Such other surveys as the National Violence Against Women Survey [Tjaden and Thoennes, 2006] yielded comparable results to the ICVS. Using behaviorally operationalized questions (e.g., "Has anyone, male or female, ever made you have oral sex by using force or threat of force? Just so there is no mistake, by oral sex we mean that a man or boy put his penis in your mouth or someone, male or female, penetrated your vagina or anus with their mouth or tongue"), the authors reported that in the 12 months prior to the interview 0.3% of all surveyed women had become a victim of rape, an additional 1.9% reported a physical assault, and 1.0% stalking. Other surveys got much higher victimization rates; for example, the National Youth Survey

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(NYSFS) [Grotpeter et al., 2008], which started as a longitudinal survey in 1976 and whose data for the eleventh wave are now available, also asked about sexual attacks in the previous year. In former waves, the prevalence rates were about 5% to 11% and therefore much higher than the results of other self-report studies. According to Ageton [1983], the broader definition of sexual assault in the present study was the result of these discrepancies. Such results underline the importance of wording and might explain the sometimes large discrepancies between particular studies.

Besides this one-year prevalence rate, much research has been done on lifelong prevalence rates. With these data, the comparability between studies is even more limited because rates are highly dependent on the age of respondents. Evidently, a student sample will achieve lower rates than a sample of older women for the simple reason that a longer life increases the cumulative probability of sexual victimization. Furthermore, the nature of a victimization experience will play an important role on whether a complaint is lodged, as well as how an interviewee responds to a survey. A sexual assault by a stranger will more easily be reported than by one's own husband. In the first case, stigmatization is lesser [cf. Kury and Yoshida, 2003, 2004] and inhibitions about reporting the offense to the police are fewer than in the second case. In the latter case, the public might ask the victim why she did not leave her perpetrating husband; yet if she leaves, people would say that her family suffers enormous consequences.

For example, the results of the second National Family Violence Survey in 1985 showed that 1.2% of the 2,434 interviewed married women had been sexually assaulted by their husbands over the previous year [cf. Straus, 1990]. Finkelhor and Yllo [1985] reported that about 10% of 323 interviewed women had been victims of marital rape, and Russell [1984] found that 14% of 644 married women were raped at least once by their husbands. Marital rape is probably the most prevalent form of rape. Different American studies reported lifelong prevalence rates of between 10% and 14% [cf. Schneider, 2001:156].

In other countries, the results are similar: In an Irish survey of 3,000 adults, 8% of the women had experienced at least one severe sexual abuse, and 15% had experienced some kind of abuse [Watson and Parsons, 2005]. Since the 1990s, family violence and marital rape have become an intensively discussed topic among the public and in politics and scientific research. While the first U.S. National Commission on the Causes and Prevention of Violence [1969] dealt at best marginally with family violence, the second U.S. Commission [Reiss and Roth, 1993], the National Committee on Violence [1990] of Australia, and the German Anti-Violence Commission [Schwind and Baumann, 1990] have devoted entire chapters to this problem.

In recent years, intimate sexual violence has become a well-researched topic in Germany. For example, in a survey by Wetzels and Pfeiffer [1995],

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8.6% of over 5,000 interviewed women aged 16 and over had experienced a sexual assault over a one-year period, two-thirds of which had been in close relationships. Only 18.9% of these offenses were reported to the police. The reporting rates were highly dependent on the victim-offender relationship. If the offender was a stranger, 57.6% of the incidents were reported; if perpetrator and victim were acquaintances, 26.7% were reported, whereas if they were relatives (including spouses), only 17.9% were. Of the nonreporting victims, 60.7% indicated the offense as a private family affair, 50% felt ashamed, 35.7% thought the police could not do anything, and 28.6% feared additional negative consequences from continuing to live with the perpetrator.

The first national German survey on victimization of women was carried out from 2002 to 2004 [cf. Bundesministerium für Familie, Senioren, Frauen und Jugend, 2004a]. In 2003, over 10,000 women in Germany were asked about any violent or sexual crimes they may have been subject to, their feelings of security, their social situation, and their health. Migrant women, prostitutes, and female prison inmates were also interviewed. The results of the written questionnaire showed that 12.8% of all women had experienced a sexual assault from age 16. Physical assaults unrelated to sex brought the figure of victimized women in the survey to some 40%. In oral interviews, 58% reported that they had been sexually molested. Approximately 7% reported enduring sexual victimization in intimate partnerships, and 25% a physical or sexual victimization at the hands of an intimate partner.

There are some differences in the crime rates between oral interviews and written questionnaires, the rates in the questionnaires being somewhat higher. This indicates once more how survey results are dependent on the survey methodology employed. This survey also sought one-year prevalence rates and concluded that some 0.9% of the women had experienced at least one sexual assault in the previous 12 months. These results are quite comparable with international data.

More than one-half (52.3%) of the women who reported forced sex in a lifelong relationship classified the offense as rape, and 40.8% as attempted rape. In addition, 51.4% claimed being forced to endure unwanted intimate touching of the body; 28.7%, forced sexual practices; and 10.1%, reenactment of pornography (multiple responses were possible). Some 9% of the women mentioned that they had been sexually abused before the age of 16, 45% of those 9% in their own families. Such experiences increased the probability of suffering sexual victimization in adulthood: 41% of those sexually abused as youngsters had undergone sexual assault in adulthood, whereas only 10% of women without such childhood victimizations had undergone an adulthood victimization.

Most offenders of sexual assaults have been (former) intimate partners (49.3%), followed by acquaintances (22.3%), friends, neighbors (19.8%), strangers (14.5%), workmates, colleagues (11.8%), and family members (10.1%). In the majority of cases (69%), the offense occurred in the victim's apartment.

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In cases where the present intimate partner had been the perpetrator, 24% of the victims felt coresponsible for the incident, whereas 55% felt that it had been the sole responsibility of the offender. In cases of a former partner being the perpetrator, 26% of the women believed they themselves were responsible, but 78% placed responsibility with the offender (multiple responses were possible). Only 7% of the women who experienced a sexual assault informed the police themselves, while in 4%, others called the police. Diverse reasons were given for not calling the police: the incident was not severe enough (42%), the victim wanted peace and quiet (35%), the incident was too private (33%), the victim felt ashamed (25%), the police could have done nothing (14%). Those women who reported the crime were satisfied with the police's handling of the matter. Only 4.2% of the cases went to court, and 2.2% of the offenders were sentenced (52% of all trials).

In a review of 10 studies of sexual victimization of women, Sohn [2007] found clear differences in study results, with lifelong victimization rates ranging from 5% to 24%. In his meta-analysis of 120 victim surveys, Spitzberg [1999] found a lifelong prevalence rate for rape of 13% for women and 3.3% for men. In a review of international surveys of sexual abuse, Finkelhor [2005] found at least 7% of women and 3% of men had been sexually assaulted during their lives. Finkelhor found a very broad range of survey results, with lifetime prevalence rates as high as 36% for women and 29% for men. This finding corresponds with the latest U.S. National Violence Against Women Survey, in which 17.6% of 8,000 women interviewed reported that they were raped during their lives; among these, 14.8% indicated a completed rape, while 2.8% classified the incident an attempted rape [Tjaden and Thoennes, 2006]. But as Finkelhor [2005] has pointed out, data are highly dependent on the methodologies employed and on cultural particularities, which lead to different definitions and perceptions of sex crime.

Such definitions of sex crimes are highlighted in two German studies of student populations: Krahé, Scheinberger-Olwig, and Waizenhöfer [1999] and Kury and others [2004] used a behavioral operationalization of unintentional sexual contact. While the Krahé study started with forced heavy petting and ended up with rape, that of Kury broadened the lower end of the scale to include stalking, exhibitionism, and sexual molestation. The Krahé study found that 52.7% of all interviewees (304 women) had experienced a criminal sexual incident during their lives, 12.2% reporting a sexual assault, 28.3% an attempted rape, and 12.2% a completed rape. In the Kury survey, 90% of all 309 female students reported an unwanted sexual contact. Categorization of incidents by severity indicated that 16.9% experienced mild occurrences (e.g., molestation), at least 61.5% reported incidents in a middle category (e.g., sexually intended touches, forced heavy petting), and 12.0% experienced severe sexual assault (e.g., rape). Of these incidents, 52.4% were criminally relevant; with exhibitionism excluded (for comparison with

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Krahé, Scheinberger-Olwig, and Waizenhöfer's work), 25.6% were still criminal events. All other categories in the Kury study were also lower than in those of Krahé (rape 5.8%; attempted rape 15.9%; sexual assault 10.0%). These two studies, with identical wording for each questionnaire item, indicate, on the one hand, that the more sensitive the instrument, the higher the victimization rates, and on the other hand that context variables (Krahé's study takes place in metropolitan Berlin and Kury's in the midsize university city of Freiburg) play an important role in measuring sexual victimization.

10.2.2.3 Men as Victims of Sexual Violence

The rape of men had been quite common in ancient times. Raping an enemy warrior signaled his total defeat and showed that he had lost his manhood. In ancient Rome and parts of the Arabian world, gang rape of men was considered a form of punishment [cf. Donaldson, 1990]. But in more recent times, sexual violence has generally connoted the rape of or sexual assault on women, and until the end of the 1980s little criminological literature focused on male sexual victimization. Although society and criminology [Urquiza and Keating, 1990:89] is becoming increasingly aware of sexual assaults on men, male rape is still much more underreported than that of women [Brochman, 1991]. This may be because of the different sex role expectations of men and women. As Sepler [1990:75] has pointed out, "The reality is that young male victims, particularly early post-pubescent males, experience the victimization from an entirely different self-view and worldview than do female victims."

One of the first studies of the sexual victimization of men was carried out by Bell and Weinberg [1978], who found a lifelong prevalence rate of 2.5%. Finkelhor and others [1990] reported the results of a national study of male sexual victimization in the United States indicating a prevalence rate of 16%. The National Violence Against Women Survey [Tjaden and Thoennes, 2006] also included a sample of 8,005 men. The results indicated that 3.0% of these men were raped at least once in their lives (2.1% completed rape, 0.9% attempted rape); the one-year prevalence rate was 0.1%. Urquiza and Keating [1990:97] compared the results of seven studies and found that the lifelong prevalence rates of male sexual assault varied between 2.5% [Bell and Weinberg, 1978] and 17.3% [Urquiza 1988]. The reasons for these enormous discrepancies are probably differences in methodology and definition, analogous to research on female victimization.

In Germany, sexual violence against male children or juveniles has become a focus of public attention since the early 1990s. Previously, in Germany as well as in many other European countries, only sexual abuse of female children and juveniles had been discussed. There was a widespread myth that boys cannot be sexually abused [Bange and Boehme, 2005:809]. An important contribution to this discussion was made by the book of Glöer and Schmiedeskamp-Böhler [1990] about the experiences of victimized

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males. Brockhaus and Kolshorn [1993:54] have estimated that some 20% of all male children and adolescents have been victims of sexual assault. Bange [1992] found in his study on 861 students a self-reported prevalence rate among men of 8%, no case of which had been reported to the police. A broader definition in this study, including experiences with exhibitionists and sexual molesters, led to a prevalence rate of about 15%. Other self-report studies yielded prevalence rates between 4% and 14% [Bange and Boehme, 2005:811ff.]. For example, Burger and Reiter [1993] reached a prevalence rate of 14% when they asked 255 employees of help desks whether they had been sexually abused during childhood or adolescence. Some 20% of the sexual abuse incidents occurred in the family. Another survey, by Wetzels [1997] on 1,580 men, showed that 7.3% had experienced some kind of sexual assault before the age of 18. When the upper-age boundary was reduced to 15, the rate for males declined to 2.8%. Most cases included sexually motivated touches without penetration.

In a recent pilot study by the German Bundesministerium für Familie, Senioren, Frauen und Jugend [2004b], 266 men were asked if they had ever experienced physical or sexual victimization. This study was part of the first national German survey on the victimization of women [ibid.:2004a], but its sample size was much smaller than that for women. The results showed that 28.6% of the men had experienced verbal sexual molestation during childhood or adolescence, 16.9% had been kissed or touched against their will, 5.6% had been touched or hard-pressed, and 1.9% had been forced into sexual intercourse by either men or women [Puhe, Lenz, and Puchert, 2004]. Walter, Lenz, and Puchert [2004a:94] recorded the incidents and found that 7.9% of the men had experienced sexual violence in a more narrow sense, and 18.8% reported sexual violence in a broader sense. In a subsample of 107 men who had served in the military, 8 individuals (7.4%) reported some kind of sexual assault [Walter, Lenz, and Puchert, 2004b:177). Only 1.5% of all men reported sexual assaults during adulthood [Walter, Lenz, and Puchert, 2004c:253]. These small rates, especially during adulthood, are probably related to inhibitions to talking about such experiences. Sexual victimhood is still seen as a loss of manhood. Unlike women, men have no common ways to communicate such experiences, neither among other men nor in society.

Besides army veterans, there are other male groups (e.g., prison inmates) with an assumed increased risk of sexual assault [Lipscomb et al., 1992]. While some surveys have argued that sexual violence in prison is a rather rare phenomenon [Nacci and Kane, 1983] other studies have pointed to fairly high rates of nonconsensual sex in prison [Struckman-Johnson and Struckman-Johnson, 2000]. An official report of the U.S. Bureau of Justice Statistics in 2004 showed that about 1.16 per 1,000 inmates experienced a nonconsensual inmate-to-inmate sexual act, and 0.33 abusive sexual contact. Staff sexual misconduct was even somewhat more frequent, occurring in 1.31

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cases per 1,000 inmates; the rate of sexual harassment by staff members was some 0.36 cases per 1,000 inmates [Beck and Hughes, 2005]. A more recent report by Beck and Harrison [2008] indicated even higher rates: 3.2% of all local jail inmates reported being sexually victimized, 1.6% an inmate-on-inmate victimization, and 2.0% sexual misconduct by staff. A meta-analysis of the prevalence of prison sexual assault showed that about 1.9% of all prison inmates are victimized during incarceration, but studies of different facilities was in the enormous range of 0.4% to 41% [Gaes and Goldberg, 2004]. Jones and Pratt [2008] analyzed nine studies of sexual violence against inmates and found prevalence rates of between 0.9% and 21%. Interestingly, more recent studies indicated even higher prevalence rates.

In a German survey on victimization at a juvenile facility [Kury and Brandenstein, 1992], 79.8% of the male inmates reported being the victim of theft, extortion, physical assault, or harassment before their imprisonment. Moreover, 5.4% reported being sexually abused before imprisonment. During incarceration, 51% were victimized, 1% of them sexually. An important problem of such studies is the enormous inhibition threshold to report such incidents, even in an anonymous interview. Reports to the correction authorities are even rarer. A survey by Wirth [2007] in the state of North Rhine–Westphalia that analyzed reported cases of violence among inmates found only five cases of sexual assault. A comparable study in the state of Hesse discovered only 11 sexual assaults or rapes in nine years [Heinrich, 2002].

In recent years, more and more cases of sexual assaults by clergy have come to light. In the United States, the case of John Geoghan, a Boston priest, accused in 2002 of having abused more than 130 children, brought the topic to the attention of the public [Terry, 2008]. Such incidents also alarmed the Church, so the U.S. Conference of Catholic Bishops commissioned a study to examine the extent and the consequences of the matter [John Jay College Research Team, 2004, 2006]. Prior to such spectacular cases, little research had been done on the problem. In a survey by J. A. Loftus and Camargo [1993] of 1,322 priests and brothers, 8.4% reported that they had been sexually preoccupied with minors. Sipe [1990] found that 2% of the priests were engaged in pedophiliac behavior and 4% were sexually preoccupied with adolescents. Plante [2003] estimated that in the United States about 3,000 priests have sexually abused a total of about 24,000 victims in the past 50 years. The extent of the scandal led to a general apology by Pope Benedict XVI during his April 2008 visit to the United States.

Terry [2008] reports some data of the John Jay College study. She found that in the past 50 years, about 4% of Catholic priests in active ministry had attracted allegations of sexual abuse. The mean length of abusive behavior was 5.1 years. Among priests who were subjects of 20 or more allegations, the

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mean length was 22.5 years. Most of the victims were boys between 11 and 14; priests with younger victims were generally subjects of larger numbers of allegations.

In Germany and other European states, it took—as with the United States—quite a long time until the public noticed the problem of child sexual abuse by priests [cf. Rainer, 2003]. Things changed in 1995, when the archbishop of Vienna was accused of having sexually abused children. At first the archbishop denied the accusation, but after further corroborative statements by brothers, the pope intervened. Rainer [2003:13] wrote that for the first time, the taboo of sexual crime by clergy was broken. For a long time, money was paid in many places to victims to avoid criminal investigations. For example, the Irish Catholic Church agreed to pay $110 million to victims of abuse by priests. Finally more than 20 priests, monks, and nuns were sentenced [Rainer, 2003]. The public image of the Church is still that of a charity organization whose members altruistically help people in difficulty. Therefore many victims feel ashamed, and often people do not believe their allegations, which contradict generally held notions. But in recent times more and more publications, such as the book by Wensierski [2006] on the abuse and maltreatment in ecclesiastic children's homes, have slowly changed the picture.

10.2.2.4 Sexual Harassment in the Workplace

Indeed, the problem of sexual harassment in workplaces is not new; but though more frequently discussed in recent years, it still plays a minor role compared with other sex crimes. In the United States, it is estimated that the vast majority of businesses have to deal with this problem and that it costs an average large corporation some $6.7 million a year [Leslie and Hauck, 2005]. The U.S. Equal Employment Opportunity Commission (EEOC) received 10,532 complaints in 1992; by 1997 the number had increased to 15,889. Since then, however, the numbers have decreased to 12,510. Interestingly, the percentage of charges filed by men has continuously increased, rising from 9.1% in 1992 to 16.0% in 2007 [U.S. Equal Employment Opportunity Commission, 2008].

In Germany, Holzbecher and others [1991] carried out one of the first large-scale surveys on this subject. They found that some 93% of all women reported some kind of sexual molestation, ranging from mild forms like wolf whistles or gazing (84%) up to exhibitionism (3%) or forced sexual behavior (3%). Admittedly, one has to keep in mind that many of the mild incidents are regarded as sexual molestation only by a more or less small minority of women. Nevertheless, the authors assessed the amount of sexual molestation as alarmingly high. Most victims were in the age range of 20 to 30 and worked for a short period in a given firm. Molestation often occurred during everyday work, with an emphasis on company parties. Most molesters were colleagues (38%), but also supervisors (21%) or clients (14%). Many victims

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did not have any strategy for dealing with such incidents, often felt stigmatized, and were afraid of negative consequences if they reported the matter. The sanctioning of perpetrators was extremely rare. According to data from the United States, 19% of men give information on such incidents.

As Gerhart, Heiliger, and Stehr [1992] pointed out, the problem also has economic implications for work efficiency. According to Smock [2003], studies showed that about 25% of all full-time employees have been molested, harassed, or assaulted in the workplace [Hoffman and Baron, 2001]. The representative survey by the Bundesministerium für Familie, Senioren, Frauen und Jugend [2004a, see earlier] showed that about 41.9% of the women reported sexual harassment in the workplace or at their school or university. In 46.1% of the cases, the perpetrator was a colleague; in 24.9%, a supervisor; in 19.7%, a fellow student; in 19.1%, a client; and in 8.0%, a professor or teacher.

10.2.2.5 Stalking

Stalking is a rather new issue in the context of sexual victimization. Although it is not easy to define stalking, there are some aspects that are included in most definitions. Commonly, it is seen as obsessive following, observing, or contacting another person or an obsessive attempt to engage in any of these activities. It also includes seeking and obtaining personal information about the victim. Often stalking occurs for the first time when intimate relationships end [Dressing and Gass, 2005]. Both women and men can be victims of stalking, but prevalence rates for men are lower [Velten, 2003]. Meanwhile, many American states have passed antistalking laws, among the first in California in 1990. By 1993, all 50 U.S. states had passed some form of antistalking legislation. In Europe, this process took much longer; Austria passed a law in 2006, Germany in 2007, and Italy in 2008.

According to Dressing and Gass [2005:16ff.], the most common stalking methods are making unwanted phone calls; sending letters, faxes, e-mails, text messages; tracking, ambushing, hanging around; sending presents, ordering in the name of the victim; damaging property, entering unlawfully; and threatening, assaulting, sexually harassing, among others. Because of the long duration of stalking, victims sometimes suffer considerably.

Results from the National Violence Against Women Survey [Tjaden and Thoennes, 2006] indicated that 1% of women and 0.4% of men had been stalked at least once over the previous 12 months. An earlier study showed a lifetime prevalence rate of 8% for women and 2% for men [Tjaden and Thoennes, 1998b]. Results from the British Crime Survey 2004/2005 showed that in intimate relationships, some 23% of women and 15% of men had been stalking victims; the aggregate rate for both men and women over the previous 12 months was 9% [Finney, 2006]. Purcell, Pathé, and Mullen [2002] reported from a nationwide Australian study that 12.8% of men and 32.4% of

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women reported undergoing at least two unwanted and frightening stalking experiences.

One of the first German surveys on stalking has been carried out in the city of Mannheim, Germany [Dressing, Kuehner, and Gass, 2005]. Of 2,000 randomly questioned inhabitants, 11.6% reported that they had been stalked during their lives. Women comprised 87.2% of the victims, men 12.8%. Dressing and Gass [2005:23] concluded that about 12% to 16% of women and 4% to 7% of men will be victims of stalkers in their lives. Other studies, such as the British and Australian cited earlier, yielded much higher rates.

The national German study administered by the Bundesministerium für Familie, Senioren, Frauen und Jugend [2004a:289] found that about 20% of all women experienced stalking, 60% of the cases involving a former intimate partner. Most frequent forms of stalking were intrusive phone calls, letters, or e-mails over a longer period of time (58.2%); unwanted visits at home or ambushing (45.0%); the stalker's threat of committing suicide (27.0%); defamation and spreading of intimate or damaging information at the workplace or among friends (23.2%); threats of wearing the victim down or damaging the victim's property (22.7%); illegal reading of letters or e-mails, or wiretapping (13.0%); deliberate damage to the victim's property (12.8%); threat of killing the victim (11.9%); and violent assaults (9.5%). Additional methods were mentioned in the report. These results show that stalking is by no means a harmless behavior but a widespread problem involving psychological suffering, as well as economic and physical damage.

10.2.3 The Stigmatization of Victims of Sexual Crimes: Rape Myths

The victim's participation in a criminal trial, with proof of his or her role of victim in the criminal act, is important in obtaining a conviction. This makes sense in the case of a brawl, in which it is possible to determine who had started it, but regarding sex crimes, the perception is sometimes blurred by wrong assumptions, or so-called rape myths. Such myths not only are widespread among the general public but also can also be found in criminological papers from an earlier period. Amir [1971], for example, widely discussed in his classical book the coresponsibility of the rape victim, terming it "victim precipitation." Elsewhere, he concluded, "It does not make any offender innocent but allows us to consider some of these men, at least, less guilty and leads us to consider that the victim is perhaps also responsible for what happened to her" [Amir, 1967:502]. As a consequence, "innocent victims" are finally a small minority. Although today such views are regarded as aberrations in criminological history, there is an ongoing discussion of guilt-diminishing behaviors by victims. "Blaming the victim" [Ryan, 1971; Johnson and Workman, 1994; Henning and Holdford, 2006] is still an important

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factor in dealing with sufferers. Rape myths are a part of this attribution of guilt. Their function is to excuse or to minimize the offense, to exonerate the offender, or to accuse the victim [Brownmiller, 1975; Burt, 1980; Burt and Albin, 1981; Bohner, 1998; Bohner, Siebler, and Schmelcher, 2006; Chapleau, Oswald, and Russell, 2008].

Burt [1980:212], for example, defines rape myths as "prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists." According to Lonsway and Fitzgerald [1994:134], rape myths meet three criteria: (1) They consist of widespread false or simplified assumptions, (2) they serve as explanations of a culturally relevant phenomenon, and (3) they serve to justify cultural arrangements. "Rape myths are attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify male sexual aggression against women." Bohner, Siebler, and Schmelcher [2006:286] suggest a somewhat different definition: "Rape myths have been defined as beliefs about rape that serve to deny, trivialize, or justify sexual aggression of men against women."

But such myths exist not only about female victims; there are also analogous myths about male victims [Chapleau, Oswald, and Russell, 2008:603ff.]. Such rape myths consist of assumptions that "men cannot be forced to have sex against their will" [Stermac, Del Bove, and Addison, 2004:901], "men are in a constant state of readiness to accept any sexual opportunity" [Clements-Schreiber and Rempel, 1995:199], and "a man is expected to be able to defend himself against sexual assault" [Groth and Burgess, 1980:808]. Such assumptions became vivid when the perpetrator is a woman. It is a general belief that men cannot be raped or even sexually molested by a woman and thus do not suffer a traumatic experience from a forced sexual encounter. Most people think a man will enjoy the encounter, even if it consists of an assault against him [Struckman-Johnson and Struckman-Johnson, 1992]. Such perceptions disappear when the perpetrator is also a man, in which case the assault is linked to homosexuality and the victim is stigmatized for his assumed sexual orientation.

Although their content varies, rape myths often tend to blame the victim, usually along such lines as "in the majority of rapes, the victim is promiscuous"; "many women have an unconscious wish to be raped, and may then unconsciously set up a situation in which they are likely to be attacked" [Burt and Albin, 1980:217]; or "women often provoke rape through their appearance or behaviour" [Bohner, Siebler, and Schmelcher, 2006:286]. Such myths exonerate the offender (e.g., "men often can't control their sexual urges"), or they minimize the violence of rape (e.g., "women often make up rape accusations as a way of getting back at men," or "a woman who is raped might as well relax and enjoy it" [ibid.:286]). Another version of the latter rape myth is the assumption that rape is a common sexual fantasy of women and the accusation against a man emanates from the woman's wish to aggrandize herself.

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Because the presumption of innocence is an important legal principle, the court has to prove the accusation thoroughly. This process is complicated by the fact that sex crimes most often occur in dyadic situations, without witnesses; the woman's testimony that she did not want to have sex is frequently contrasted with the man's statement that it was a consensual act. Although a survey by Elsner and Steffen [2005] showed that false allegations appear very seldom, occurring in only 140 of 1,894 (7.4%) analyzed reported cases, it can happen; each case has its own history and must therefore be investigated. But, as Bohner [1998:16] points out, the judicial treatment of no other crime category is so highly influenced by subjective arguments. Probably no burglar would be exonerated when he or she states that the wealth of the victim has goaded him or her into committing the burglary, or that the burglar had previously dealt amicably with victim. But for a sex offender, a dating relationship with the victim not infrequently constitutes mitigating circumstances [Weis, 1982; Abel, 1988]. Therefore, it is comprehensible that women often impose behavioral restrictions on themselves so as not to be suspected of complicity [cf. Bohner, 1998]. In contrast, men can show similar behavior (e.g., going out alone at night or hitchhiking) without being compromised.

But rape myths also perform a function in society. They allow the individual to deny, to minimize, or to reinterpret a potentially dangerous fact that quite often occurs. So the world is becoming a bit better and less dangerous. Blaming the victim maintains the belief in a just world, a social-psychological concept that has been thoroughly described since the 1960s [Lerner, 1965, 1980, 1998; Lerner and Simmons, 1966; Jones and Aronson, 1973; Viki, Abrams, and Masser, 2004]. The attribution of negative characteristics and responsibility for the incident to the victim disencumbers the attributor because he or she is different from the victim. Because he or she does not have these negative characteristics, the perpetrator's chance of suffering in a like manner is reduced. "Everyone gets what he deserves," and the victim has done something bad or has bad characteristics, otherwise the crime would not have happened.

Aside from the fact that rape myths are one basis for blaming the victims of sexual assaults and that they often cause a secondary victimization, there is some evidence that their acceptance facilitates sexual aggression. For example, Feild [1978] and Koralewski and Conger [1992] have found that rapists tend to accept rape myths more readily than do nonrapists, although these findings have been subject to controversy [Epps, Haworth, and Swaffer, 1993]. Other studies have found a clear relationship between a proclivity to rape and acceptance of rape myths [Malamuth, 1981; Malamuth and Check, 1985]. According to a meta-analysis by Murnen, Wright, and Kaluzny [2002], a significant statistical correlation exists between these two variables [see also Bohner, 1998]. However, such correlation has not been able to indicate a causal link between the two, and the role of potentially significant covariates remains unclear. A more recent study, by Bohner, Siebler, and Schmelcher

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[2006:290], showed "that men's proclivity to exert sexual violence is causally affected by the perceived rape myth acceptance of others." The results of this. study of university students showed that relevant in-group norms, namely, that rape myths are accepted by salient others, determine the proclivity to exert sexual violence. These results confirmed the assumption of Burt [1980] that the acceptance of rape myths diminishes social prohibitions against using force in sexual interactions.

10.2.4 The Consequences of Victimization

The extent of the consequences of sexual victimization are highly dependent on the severity and length of the victimization, as well as on the victim's social environment, resources, and social or professional support. Concerning the consequences of child sexual abuse, Kendall-Tackett, Williams, and Finkelhor [1993] reviewed 45 studies to gather information about the symptoms caused by such victimization. The greatest affect levels were found for aggression ($\eta^2 = .43$) and sexualized behavior ($\eta^2 = .43$), indicating that sexual abuse has a high predictive value for such future behavior. Other symptoms were internalization (.38), withdrawal (.36), depression (.35), externalization (.32), and fear (.15). However, no symptom characterized a majority of the abused children. Ernst [2005:78] came to similar conclusions and argued that until now, research has not been able to find any specific mental abnormalities as a consequence of child sexual abuse.

In this context, much attention has been given to a meta-analysis by Rind, Tromovitch, and Bausermann [1998], which found in studies on college samples that students with a history of sexual abuse were only slightly less well adjusted than control groups. Furthermore, their results showed that this mild maladjustment was not necessarily the result of the sexual abuse; the variance was highly confounded with a bad family environment, a factor that explained much more variance than the sexual abuse. Their conclusion, to the effect that the widespread assumptions that (1) child sexual abuse causes harm, (2) children who experience sexual abuse are affected, (3) such harm is severe or intense, and (4) it has an equivalently negative impact on boys and girls are not supported by empirical analysis, has resulted in a unique historical debate among scientists, the media, and the U.S. government. Although Rind, Tromovitch, and Bausermann concluded their paper with the remarks that "then it is also true that lack of harmfulness does not imply lack of wrongfulness" and "the findings of the current review do not imply that moral or legal definitions of or views on behaviors currently classified as CSA should be abandoned or even altered" [ibid.:47], the U.S. House of Representatives passed a resolution that condemned and rejected the results of the study as advocacy of sex between adults and children [H. Con. Res. 107, May 12, 1999]. Dallam [2002] criticized the study of Rind et al., claiming it

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contained sampling errors, a lack of standardization of variables, statistical errors, and personal bias by the authors. In conclusion, she wrote, "After reviewing the available evidence, Rind, Tromovitch, and Bausermann's study is perhaps best described as an advocacy paper that inappropriately uses science in an attempt to legitimize its findings" [ibid.:127]. This controversy shows clear evidence of the minefield such discussions can be. Often, pressure groups are involved and each side has its scientific advocates, often blurring more than elucidating the issue.

Studies on battered and sexually coerced women in close relationships show that they described themselves as dependent on the offenders, had low self-esteem, and felt helpless [Gelles, 1998]. Clinical studies found a high degree of depression and anxiety among such women [Hilberman, 1980], although findings are, again, far from consistent. Some studies described the victims as withdrawn and timid, whereas others report an aggressive behavior [Gelles, 1998:195]. Hotaling and Sugarman [1990] searched for risk markers for assault of women in intimate relationships. Although their results were not consistent, marital conflicts and a low socioeconomical status had a considerable predictive value, increasing the probability of victimhood. But as in many other studies, the index behavior (maltreatment) and other risk variables (e.g., poverty or conflict) were confounded.

The representative German study of violence against women [Bundesministerium für Familie, Senioren, Frauen und Jugend, 2004a] also asked for the consequences of victimization. Four groups of female victims were taken into account: victims of psychic violence, of sexual molestation (e.g., salacious comments, sexualized touches), of violent assaults, and of sexual violence (e.g., rape or attempted rape). In each group, most of the victims reported mental consequences [ibid.:140], with a relatively low frequency in the sexual molestation group (56.3%), followed by violent assault (63.5%), sexual violence (78.7%), and, interestingly, most frequently in the group who does not suffer physical attacks, psychic violence (83.2%). Table 10.2 gives an overview of the most frequent mental consequences. Most often, the women mentioned, independently of the type of victimization, permanent brooding, reduced self-esteem, anger, and a desire for vengeance.

There were also long-term consequences, especially in the group of victims of sexual violence: 79.7% separated from their partners, 36.3% relocated, and 15.9% went to a therapy [ibid.:148].

Such data show that negative consequences are quite common, with many victims experiencing trauma. According to Kilpatrick, Edmunds, and Seymour [1992], 31% of the raped women develop rape-related posttraumatic stress disorder. Resick and Nishith [1997] summed up the matter thus:

> In summary, most rape victims, immediately after the assault, experience acute reactions that last several months. By 3 months postassault, there is

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Table 10.2 Most Frequent Mental Consequences of Different Violent Victimizations

	Psychic Violence	Sexual Molestation	Violent Assault	Sexual Violence
Depressiveness	46.0	21.6	36.6	36.1
Sleeping disorders	33.1	25.2	31.2	27.4
Permanent brooding	69.2	53.4	59.6	49.9
Reduced self-esteem	54.9	35.8	36.4	42.6
Anxiety	18.4	27.7	25.0	24.2
Problems with men	12.6	18.0	14.8	34.3
Problems in relationships	21.5	17.3	18.7	27.3
Sexual problems	9.0	11.7	11.5	31.2
Feelings of shame, guilt	15.2	20.4	16.1	38.0
Anger, vengeance	50.1	48.7	41.7	34.1
Listlessness, concentration problems	25.7	10.4	13.5	11.0

Source: Bundesministerium für Familie, Senioren, Frauen und Jugend, *Lebenssituation, Sicherheit und Gesundheit von Frauen in Deutschland*. Berlin: Author, 2004a, 141.

> some stabilization in the initial symptoms. However, some victims continue to experience chronic problems for an indefinite time in the areas of fear/anxiety, depression, social adjustment, sexual functioning, and self-esteem. [ibid.:31]

But mental problems are not the only ones that follow a criminal victimization. On the basis of the National Youth Survey sample, Menard [2002] showed that violent victimization during adolescence increases the risk of becoming a perpetrator or/and a victim in the future, as well as abusing legal and illegal drugs during adulthood.

10.3 Dealing with Sex Offenders

10.3.1 The Sanctioning of Sex Offenders

The media often complain that the courts treat sex offenders too leniently. One of the main problems for finding an adequate sentence is, as mentioned above, that sex offenses occur mostly in dyadic situations. On the one hand, the victim accuses the alleged perpetrator, who, on the other hand, denies having done anything illegal. In court, this means there is one person's word against another's. In accordance with one of the most important rules of a constitutional state, namely, the presumption of innocence until proved guilty beyond reasonable doubt, the judge has to impose a lenient sanction on the offender or even to find the offender not guilty, when he has doubts about the reality of the occurrence. The closer the relationship between victim and offender, the more difficult is the proof of guilt. For example, Heiliger

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and Engelfried [1995] found, only 20% of all police-reported cases appear in court. When relatives of the victims are accused, 57.1% of the proceedings are closed without any sentence; when strangers are accused, the comparable figure is only 16%. Oft-times, courts commission forensic testimony, and most of the experts are men. Heiliger and Engelfried [1995:156ff] found some evidence that such experts tend to empathize with the (male) offenders. However, this observation is relativized by a study by Menzel and Peters [2003], who have showed that the vast majority of the analyzed testimonies affirmed the credibility of victim statements.

Statistical data for Germany show that in 2006 [Statistisches Bundesamt, 2007], courts made decisions in respect of 2,018 adults accused of rape or sexual assault. Of these decisions, 1,428 (70.8%) were convictions and 20.2% verdicts of not guilty; 8.0% of the cases were closed, most often for want of evidence (1% were other decisions, e.g., psychiatry placement). For other violent crimes, such as aggravated assault, the rate of those not convicted was much higher (41.8%), but the rate of not guilty verdicts much lower (9.8%), and the prevalence of closing cases also higher (31.3%). This probably reflects the circumstance that rape trials usually involve one person's word against another's, and the judge has to decide not guilty.

Menzel and Peters [2003] analyzed the severity of sentences of sex crimes between 1979 and 1996. They found that the rate of day fines and probations steeply increased, from 32% in the first five-year period (1979–1984) to 74% in the second (1985–1990), decreasing somewhat in the third, to 64% (1991–1996). Such data reflect a clear tendency of avoiding prison sentences. The authors' opinion was that in 1991 to 1996, sex crimes were more rarely seen as severe sexual offenses than in 1979 to 1984. They assumed a kind of desensitization of the German public concerning sexual violence [ibid.:100]. The authors composed an index, assigning the value 100 to the period 1979–1984. The index declined for forcible rape to 51 in the second time period, rising to 58 in the third. Movement in the index for sexual harassment was 100–15–40. For all other crimes, changes of the index were less abrupt: 100–84–75. The authors concluded that this development is a consequence, not of changes in the definition of sex crimes, but rather, of different ways of dealing with offenders. Unlike in previous decades, the developmental history of the perpetrator and his living conditions are taken into account for the sentence.

A longitudinal analysis of the sentencing practices of German courts shows that since 1980, the incidence of longer sentences for sex crimes has increased. In Figure 10.5, all sentences handed down in a one-year period were divided into seven categories. The first three categories (0–6 months, 6–9 months, 9–12 months) involve more lenient sentences. The one-to-two-years category can be characterized as intermediate; sentences in this category can still be suspended. According to German law, all sentences

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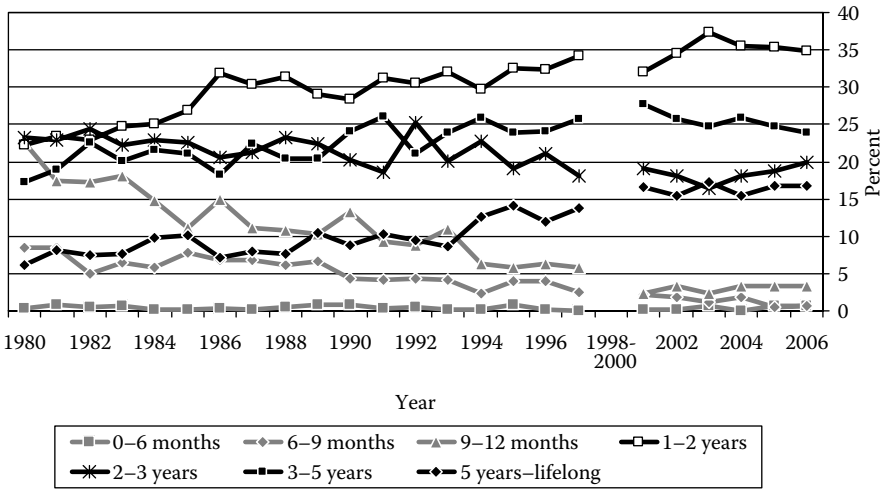


Figure 10.5 Sentencing in Germany for rape and sexual assault, 1980–2006. (Data from *Statistisches Bundesamt* [1981–2007]. Fachserie 10, Reihe 3: Rechtspflege. Strafverfolgung. Wiesbaden: Statistisches Bundesamt.)

longer than two years may not be suspended, and therefore the last three categories (2–3 years; 3–5 years; 5 years to life) represent the harsh sentences. The seven categories add up to 100% of all sentences during each reference year. Because of changes in German law, rates for the years 1998 to 2000 were not available for calculation.

As Figure 10.5 shows, lenient sentences of under one year became quite rare, especially in the last six years. The rate for each such category dropped below 5%. In comparison, in 1980, 22.5% of all sentences for rape and sexual assault were between nine and twelve months. This category has constantly decreased, and in 2006 it was 3.6% of all sentences for rape. Such a decrease could be the result of a decrease in the severity of sex offenses, but there are no plausible cues for such an assumption. Probably this development is more influenced by a sensitization not only of the public but also of judges concerning mild sexual offenses. As a consequence, longer sentences can be expected to increase, which is the case as depicted in Figure 10.5. At first glance, these results seem to be contradictory to those obtained by Menzel and Peters [2003]. But they depict a development in the opposite direction in dealing with sex crimes. On the one hand, minor crimes are dealt more and more leniently, with judges imposing day fines instead of imprisonment; more severe crime are treated more harshly with less clemency.

The rate of sentences between one and two years has clearly increased, from 22.2% in 1980 to 38.4% in 2006. There has been no major change in the two-to-three-years category (1980: 23.2%; 2006: 20.0%), whereas the rate

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of sentences between three and five years has increased (1980: 17.3%; 2006: 23.9%). An extreme increase is observable in the harshest sanctioning category of five years and longer. While the rate was 6.1% in 1980, it more than doubled by 2006 (16.7%). This is a clear indicator that sex offenders are treated more harshly. The increase in sanctioning severity after the 1998–2000 gap reflects the changes in legal definitions in 1998, combined with an increased higher end in the sentencing range for sex offenders.

For sexual abuse of children (see Figure 10.6), the results are quite similar. Lenient sentences are more frequent in this category of crimes than for rape and sexual assault. The incidence of mild sentences in the ranges of six-to-nine months and nine-to-twelve months has clearly dropped during the past 27 years. In 1980, most offenders with a prison sentence received a sentences of nine-to-twelve months (30.4%); the second-most-prevalence sentence category was six-to-nine months (28.1%). This situation has clearly changed, with the incidence of sentences in the nine-to-twelve-months range dropping to 14.2% in 2006, and for the six-to-nine-months range to 11.6%. In contrast, the number of sentences between one and two years heavily increased in this period of time. In 1980, 21.0% of the prison sentences were in this category; in 2006 it was 36.8%. Here, the same dynamic appears to have been put in motion as for rape and sexual assault; the incidence of lenient prison sentences within the category of convictions that can be suspended dropped, whereas that of harsher sentences increased. In the category of sentences that cannot be suspended, the rate for sentences between two and three years has not changed very much, rising from 7.8% in 1980 to 8.6% in 2006. But the incidence of sentences in the category of three-to-five years has

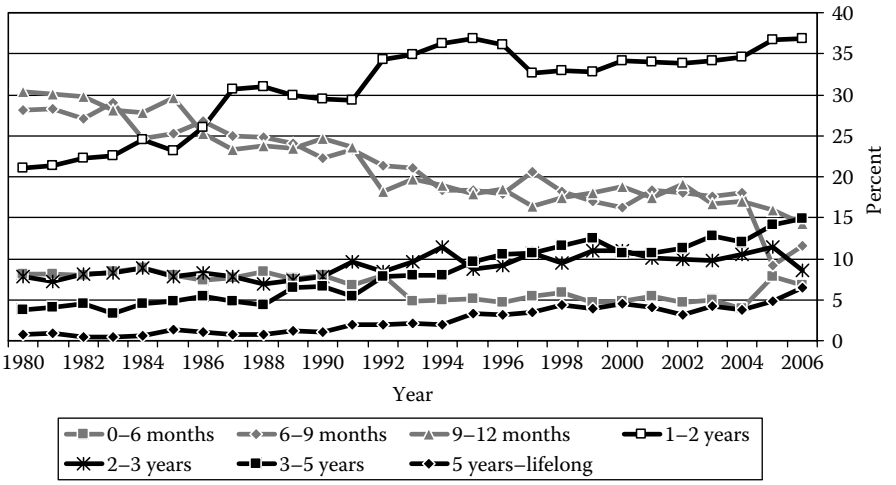


Figure 10.6 Sentencing in Germany for child sexual abuse, 1980–2006. (Data from *Statistisches Bundesamt* [1981–2007]. Fachserie 10, Reihe 3: Rechtspflege. Strafverfolgung. Wiesbaden: Statistisches Bundesamt.)

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quadrupled from 3.8% in 1980 to 14.8% in 2006. Moreover, the rate for the harshest category (5 years to life) has increased from 0.7% in 1980 to 6.4% in 2006, an increase of some 900%.

The foregoing data suggest an increase in harsher sanctions for sex crimes in Germany in recent decades. In order to show that this development specifically affects sex crimes, it would be necessary to compare it with other crimes. One can hardly do this in detail, but Figure 10.7 shows the sentencing categories for offenses in general. Here, the changes are much less impressive than for sex offenses. Indeed, there is also a general tendency toward a harsher sanctioning [Obergfell-Fuchs, 2008]. For example, the rate of sentences of up to six months has decreased (1980: 50.6%; 2006: 44.0%), whereas the category one-to-two years has increased (1980: 10.7%; 2006: 18.0%), but these changes are far less than the increased harshness for sex crimes.

One can conclude that sex offenders have been receiving harsher sentences in recent decades, but this development began long before the topic became the focus of intense public discussion. Hence, such sentencing has not resulted only from such discussion [Obergfell-Fuchs, 2006:605ff.]. However, there is concurrently a trend in the opposite direction, namely, toward sentences sufficiently light to be suspended. Whereas in 1980 judges had suspended 57.9% of eligible cases of rape and sexual assault, by 2006 this rate increased to 92.6%. For sexual abuse of children, there is also an increase from 72.0% (1980) to 94.9% (2006). In other words, offenders who receive a mild sentence (normally for less severe crimes) today have a much higher chance of avoiding imprisonment than they had 25 years ago. On the

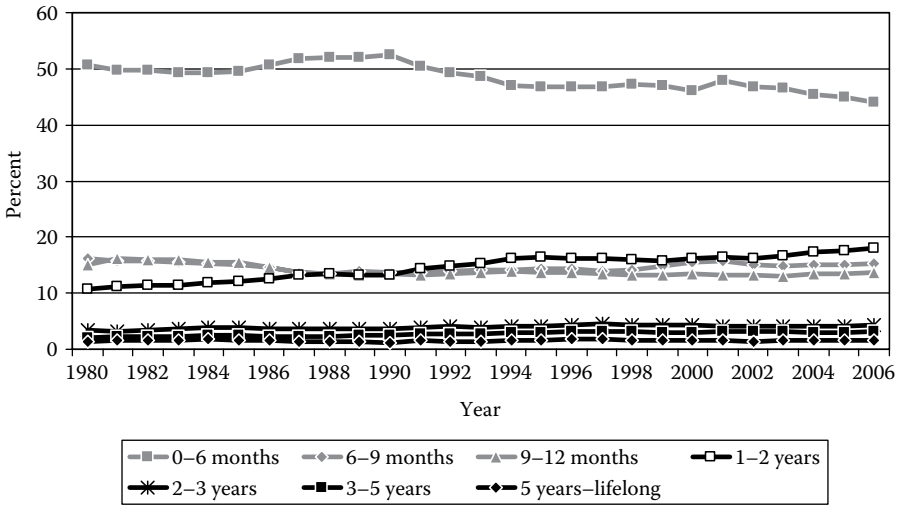


Figure 10.7 Sentencing in Germany for total offenses, 1980–2006. (Data from *Statistisches Bundesamt* [1981–2007]. Fachserie 10, Reihe 3: Rechtspflege. Strafverfolgung. Wiesbaden: Statistisches Bundesamt.)

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other hand, those with unconditional prison sentences have to stay longer in prison.

The second edition of the *European Sourcebook* [2003] provides some comparable data for European countries, but unfortunately no data from longitudinal studies. Table 10.3 gives an overview of the number of unsuspended custodial sanctions for rape in different European countries. In the first row, Germany is depicted as the reference country. These rates differ from the percentages in the figures cited earlier, where only unsuspended sentences were considered; also, the categories differ. Table 10.3 shows enormous differences between countries. Milder sentences are more frequent in Denmark, Finland, Italy, the Netherlands, Norway, and Slovenia. Much harsher sentences are the rule in France, Hungary, Portugal, England and Wales, Northern Ireland, and Scotland. In France, and England and Wales, 78.7% and 70.2%, respectively, of convicted rapists received a prison sentence of more than five years; in Denmark or Norway, almost no offender received such a long sentence. One can hardly say that the severity of sanctioning is a consequence of such attributes as being Scandinavian, Mediterranean, or part of the former Eastern bloc. Judicial handling of sex offender probably depends more on particular historical developments in law and legal practice.

Table 10.3 Percentage of Convictions for Rape by Length of Unsuspended Custodial Sanctions

Country	0–6 mo	6–12 mo	1–2 y	2–5 y	5–10 y	10 y +
Germany	*0.6*	*4.2*	*12.3*	*65.2*	*16.6*	*0.9*
Austria	1.7	8.7	40.9		7.0	
Denmark	17.8	31.1	40.0	11.1	0.0	
Finland	0.0	18.5	22.2	55.6	3.7	0.0
France	0.0	5.1	16.0		33.5	45.2
Hungary	0.7	0.7	13.3	49.7	35.0	0.7
Italy	1.1	19.3	41.8	29.6	7.3	0.8
Netherlands	7.0	25.6	32.6	34.9		
Norway	19.4	12.9	16.1	51.6	0.0	
Poland	0.2	1.0	21.5	65.0	12.0	0.4
Portugal	0.0	0.0	6.4	40.4	40.4	12.8
Slovenia	9.5	19.0	33.3	28.6	9.5	0.0
Sweden	1.3	6.5	42.9	49.4		
Switzerland	0.0	1.5	2.9	72.1	7.4	4.4
England and Wales	0.0	1.1	1.7	16.9	56.8	13.4
Northern Ireland	0.0	0.0	14.2	0.0	28.6	42.9
Scotland	0.0	0.0	0.0	30.8	50.0	19.2

Source: *European Sourcebook of Crime and Criminal Justice Statistics,* 2nd ed. The Hague: WODC, 2003.

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10.3.2 Recidivism and Treatment of Sex Offenders

10.3.2.1 Results of Recidivism Studies

Ways to deal with sex offenders has become a salient issue in the intense public debate of recent years. Although there are many studies on the recidivism rates of sex offenders, the results have often been mixed [Egg, 2004:119]. For example, Elz [2001, 2002] found in a German survey over a six-year follow-up period a recidivism rate of 19.3% for sexual violence, 22.1% for child sexual abuse, and 55.6% for exhibitionism. Reduced by detention on remand, placement in mental hospitals, or deportation, the rates were 14.0%, 20.4%, and 54.7%, respectively. The recidivism rates per year declined from 31.6% in the first year after release to 7.1% in the sixth year. Over 50% of the relevant incidents occurred in the first two years, and only 16% in the fifth or sixth year of the follow-up period [Egg, 2004:129]. Elz [2003:131] also reports recidivism rates of young offenders under 21, in comparison to those over 24. Whereas in the first group only 2% were not reconvicted (23% of the reconvictions were for sex offenses), the rate in the older group was 63% (13% reconvictions for sex offenses).

A more recent German survey by Rehder and Suhling [2008] found similar results: during a follow-up period of five years, 12.3% of those convicted for rape exhibited a relevant relapse; for severe sexual child abuse, the rate was 11.6%. A survival analysis has shown that some 20% of sex offenders were reconvicted within 365 days after release and 30% with 730 days, with the curve leveling over increasing time.

Generally, there are considerable differences in relevant recidivism rates. Song and Lieb [1994], for example, found relapse rates among sex offenders of between 1.5% and 22.8%, whereas a meta-analysis by Hanson and Bussière [1998] yielded a relevant reconviction rate of 13.4%; and an expanded meta-analysis by Hanson and Morton-Bourgon [2004] showed a relevant reconviction rate of 13.7%. In recent literature, there has been a differentiation according to type of sex offense. For example, Prentky and others [1997] found in their study after a follow-up interval of at most 20 years a relapse rate of 39% for rapists and 52% for child sex abusers. The research by Hanson and Bussière [1998] yielded much lower recidivism rates: 18.9% for rapists and 12.7% for child sexual abusers. Such differences point to methodological differences between studies.

10.3.2.2 The Relevance of Treating Sex Offenders

In public policy, as in criminology, the question often arises as to whether therapeutic treatment of sex offenders would reduce recidivism. After a period of euphoric belief in the effectiveness of therapy [for the German situation, see Kury, 1986], the works of Martinson [1974] and Lipton, Martinson, and Wilks [1975], which concluded that "nothing works," were

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disillusioning. A new period commenced marked by heightened skepticism about research pointing to the effectiveness of offender treatment [Ortmann, 2000]. Meanwhile, a vast number of studies on the topic serve as grounds for changing the uncompromising "nothing works" to a moderate "something works" [Petersilia, 2004]. But there is still much criticism of the treatment of offenders [cf. Ortmann, 2006], and the focus has changed, for "the important issue is not whether something works but rather what works for whom?" [MacKenzie, 1997:9–19].

In almost all surveys on the effectiveness of offender therapy, recidivism is the main criterion for measuring success (see section 10.3.2.3 later in this chapter). The most common method is comparison of a treatment group with a control group, the members of which have not received the treatment under consideration. It is worth mentioning that the most important requirement of scientific social research, the randomization of group members, is rarely fulfilled [Ortmann, 2000, 2002]. In Germany, the inmates in therapeutic prison units are not alone in receiving treatment, for very often sex offenders in regular prison units also are assigned to in-house therapeutically oriented units [Suhling, 2006]. This leads to an uncontrollable commingling of treatment and control groups.

Despite the foregoing methodological problems, studies on the recidivism of released sex offenders are regarded as the *via regia*. Meanwhile, meta-analyses developed in recent decades are the most common method of mastering enormous numbers of individual studies. For example, Nagayama Hall [1995] included 12 studies with a total of 1,313 sex offenders in his meta-analysis. During a mean follow-up period of 6.9 years, he found a total effect of r = .12, indicating that 19% of untreated, and 27% of treated, sex offenders reoffended with a new sex crime. The correlations were even more significant for cognitive behavioral and hormonal treatments. Hanson and others [2002] found in a meta-analysis of 43 studies, with a total of 9,454 sex offenders, with follow-up periods up to 16 years (median 4 years) relevant recidivism rates of 12.3% for treated and 16.8% for untreated sex offenders. The odds ratio of 0.81 was significantly different from 1.0. However, Hanson and others critically mentioned, "The remarkably consistent effects found when the comparison groups included dropouts or those assessed as not needing treatment suggests that the results of these studies are more related to the method of subject selection than to the treatment received" [ibid.:183]. But despite this critique, they concluded, "We believe that the balance of available evidence suggests that current treatments reduce recidivism, but that firm conclusions await more and better research" [ibid.:186]. One of the largest meta-analysis, by Schmucker [2004], included 69 studies from English-speaking countries, as well as Germany, Switzerland, and Austria, comprising 22,181 sex offenders. Follow-up periods for treatment groups ranged from 12 to 228 months, with a mean of 63.5 months. For the control

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groups, follow-up ranged from 10 to 240 months, with a mean of 62.4 months. The unweighted data resulted in a recidivism rate of 12% for the treatment group and 24% of the control group. The odds ratio of 0.43 was significant. A model considering randomized effects yielded an odds ratio of 0.59, which was still significant. Cognitive behavioral and outpatient therapies with voluntary offender participation were most effective.

Several studies have shown that assuming the effectiveness of prison therapy, aftercare is at least as important [Gies, 2003]. In his study, Ortmann [2002:257ff.] showed that a former convict's social situation after release was an important predictor of recidivism. Lösel and Bender [1997] found that negative progressions after successful treatment in prison are the result of a lack of aftercare. But despite such results, the factual situation is disappointing: Schmucker [2004:157] found in only 9 of the 69 studies evidence for mandatory aftercare, whereas in 6 others voluntary aftercare was mentioned. Slowly, the situation seems to change, but often this is highly dependent on the initiative of particular pressure groups.

10.3.2.3 Methodological Remarks: The Explanatory Power of Recidivism Studies

As mentioned in the preceding paragraph, recidivism studies have hitherto been the most frequent method of measuring the effectiveness of treatment programs for sex offenders. But such studies bear a number of methodological limitations. Often there are already problems in the definition of relevant recidivism. For example, is a reconviction of a rapist for exhibitionism or child sexual abuse a relevant relapse? Or would only a rape meet the categories of relevance? Among the studies, this criterion of "relevance" is less than consistently used.

A second problem is the extremely high dark figure. If the dark figure were uniformly distributed among the different types of sex offenses and the different social conditions of released offenders, it would not be a major problem. But the assumption of uniformity of distribution is far from generally accepted. For example, the risk to the perpetrator of a "stranger rape" of being arrested and convicted is much higher than for that of an acquaintance or date rape, and it is probably much higher than for the perpetrator of incest. The result of one of our own studies (unpublished) was that most offenders show variations in their offending behavior and the choice of their targets over time and circumstances. Therefore, one can hardly assume consistent offense patterns. Furthermore, the more rigorous the surveillance of the offender after release, the higher his chance of being caught when committing a crime. This could lead to the paradox effect that those who receive a strict aftercare program have a higher chance for recidivism, but only because the others are not conspicuous.

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It is widely assumed that all reconvictions are registered at the appropriate national agency. For Germany, this would mean all legal convictions are reported to the so-called Bundeszentralregister, where all such incidents are recorded. But a recent study showed that this is not always the case [Obergfell-Fuchs and Wulf, 2008]. In this study of the effectiveness of aftercare for sexual offenders, up to 10% of offenders had no registration in the Bundeszentralregister, although a written conviction was available in their files. One can hardly analyze the reasons for this problem, but whether failure to register was because of inefficiency at the public prosecutor's office or at the Bundeszentralregister itself, the result can be considerable overestimation of the efficacy of therapy.

Yet discussion of the long-term effects of a treatment in prison is necessary. Is it really appropriate, or fair, to make such therapy responsible for incidents that occur 3, 5, or even 10 or 20 years after its end? These are the regular follow-up periods in recent recidivism research. How long can the "half-life" of treatment effects during imprisonment be? Is the penitentiary system responsible for every new offense that occurs in 2, 3, or 4 years? Meanwhile, such other agencies as probation services or aftercare institutions involved in work with offenders are not the only influences. Family, job, social network—all are factors that become increasingly important as time passes after release. Even macrovariables, such as the economic situation in a region and its impact on finding work, have an important influence on recidivism, but they are rarely taken into account by recidivism studies.

There is one more important, practical, argument against the uncritical use of reconviction rates: If practitioners would like to use the results of such recidivism surveys for the evaluation of their particular treatment programs, they have to wait at least five years for the first results to be available. During this time, their treatment should not change; otherwise, the results of such an evaluation would be worthless. As the development of therapy continues, this is a quite ridiculous demand because no one would stick to a timeworn treatment program. But studies on recidivism rates can always only depict a situation of 3, 5, or 10 years ago.

Although such arguments are well known, criminological research still adheres almost solely to recidivism studies. One should think about more appropriate measures of the effectiveness of treatment programs; one possibility could be defining goals at the beginning of the treatment, the measurement of the changes at its end, and follow-up analysis between 6 and 12 months later in order to measure the remaining effects. Since with increasing time the number and explanatory power of other, sometimes unforeseen, variables increases too, the net effects of therapy are hardly measurable after a longer period [Obergfell-Fuchs and Wulf, 2008].

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10.4 Conclusions

Sexual violence seems to be quite prevalent in modern societies, but despite media reports to the contrary, the rate of sex crimes has decreased in the last century. Still more than other crimes, sex offenses are treated as a scandal. Ernst [2005:78] critically points at the widespread pseudoknowledge, the uncritical takeover of the topic in the media and in public policy, and the problems of political correctness and therefore the risk of inflated prevalence rates with severe consequences. For the media, sex crime is a business: "Sex sells, crime sells better, sex crime sells best." In this context, sex offenses are often depicted in the same scheme: A man jumps out of a bush in a park at night, drags an unknown woman behind the bush, and rapes her. But as Beckett and Sasson [2004:76] have pointed out, "These stories reinforce the notion that sex crimes are committed only by 'sex fiends'—crazy and irrational individuals—and both reflect and perpetuate the myth that sexual violence is not committed by known and trusted individuals" [Soothill and Walby, 1991].

But the reality, as the increasing number of criminological studies have shown, is different. Many sex offenses occur in more or less close or intimate relationships, and often these crimes are understandable only in their context. When, for example, Harten [1995:13] wrote that under certain circumstances some sex crimes are even understandable or excusable by the victim, then it is not necessarily a revitalization of the old discussion of joint guilt of the victim. It is more a reflection of the fact that some sex offenses, although not justifiable, are terrible consequences of relationship conflicts. In such cases—and only in such cases of sex offenses—the criminal law often provides no adequate solution, and sometimes the conviction and the imprisonment of the offender causes further harm, even for the victim [Kury and Kern, 2003a, 2003b]. For solving such complex problems, criminal law is overburdened and the demand for more severe sanctions has no impact. Mösch [2004:210], for example, argues that the actual increase in the severity of punishment for sex offenders in Switzerland in order to show solidarity with the victims is just a legitimation of retaliation. It is not the actual victim of the particular offense who is borne in mind, but a virtual and abstract "victimship" of potential future victims. Such an increase in harshness could have only symbolic effect.

The conviction of an offender is possible only when there is clear proof that the offender is guilty of committing a particular offense. Such proof of guilt requires—especially in cases of sex crimes—a critical examination of the victim's evidence. But this means a criminal law that is interested not only in the processing of a dossier but also in the victim's good; such a law must reconcile two opposing, but legitimate, interests. There is, on the one hand, a potential secondary victimization of the victim, and, on the other, the

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prevention of future victimizations by punishing the offender. Furthermore, the criminal procedure has to show the offender that he must change his behavior and/or must be locked up until the danger he poses is eliminated so that others are protected from harm.

The broad variation of sex offenses, the range of motives involved, and the wide variety of victims and consequences of victimization can rarely be considered in actual criminal proceedings. It is still usual to concentrate on the (severe) punishment of the offender or, for example in the United States, the offender's public labeling to alert people and prevent further crimes, though with negative consequences for the offender's reintegration [Finn, 1997; Levenson, and Cotter, 2005]. Yet in the final analysis, simply locking the perpetrator up for a long time cann ot solve the problem. On the one hand, this would affect the human rights of the offender by reducing his chance of reintegration; on the other hand, incarceration is an extremely expensive way to deal with deviant behavior. Criminological research has shown that successful treatment of sex offenders is possible, although there are still considerable methodological limitations in the explanatory power of such results.

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Financial Crimes in Comparative Context

11

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11.1 Introduction

Crime in the business sector has always presented criminologists with difficulties of terminology and boundary setting. The term *white-collar crime* is full of associative baggage arising from its important roots in pointing out that individual and corporate elites can be involved in crimes for economic gain, thereby falsifying the view that poverty is a necessary condition for crime [Sutherland, 1983]. (Relative deprivation as a cause of crime can be tasteless as well as tautological when applied to multimillionaires committing fraud when seeking to finance their lifestyles as multi*billion*aires.) Shapiro [1990] sought to shift its connotation when arguing that we should "collar the crime, not the criminal" and focus not on the social backgrounds of offenders but, rather, on the relationships of trust and on the practical separation of agent from principal that enable white-collar criminality to occur. However,

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issues of elite involvement in criminality retain their attraction for academics and activists working in the field. In popular media usage, white-collar crimes can be any crimes of deception, including those involving misuse of power by elites, but usually (by volume of cases if not by impact) not involving elites as offenders (though often involving them as victims).

Outside the United States, and particularly in continental Europe, the term *white-collar crime* has increasingly been replaced by the term *economic crime*. It might be countered that this largely neutralizes it as a sociological term, and besides, what crimes for gain are *not* economic? However, economic crime is aimed to depict crimes of corruption, fraud, and the like, rather than theft, burglary, robbery, and suchlike crimes committed for economic motives (if only to fund personal alcohol or drug use). Thus the Council of Europe's Organised Crime Situation Report [2005], to which this author was principal contributor, had economic crime as its main focus.

Finally, in official circles—such as regulators and the Financial Action Task Force, set up in 1989 to develop policies and action against money laundering—the term *financial crime* is often used, though this is neither a legal nor a well-defined conceptual term. Conventional usage among American, British, and international regulators and policing bodies suggests that financial crimes include fraud, market abuse (e.g., insider trading), money laundering, financing terrorism, and sometimes more general forms of illicit corporate conduct for profit. (It is not common to include price-fixing cartels and transnational bribery within the financial crime category, reflecting the lack of clear organizational mandate, despite their having been criminalized in many countries.) As in the case of organized crime [Levi, 2007a], the use of the collective noun *financial crime* risks overhomogenizing forms of behavior that really should be kept separate. Why, for example, should we bracket together the laundering of the proceeds of crime with financing terrorism from legitimate activity? What is there analytically in common between (1) lying to people to persuade them to take mortgages they cannot afford, or to get them to grant credit; (2) making an illicit profit by trading on inside knowledge; and (3) laundering the proceeds of drug or people trafficking?

The 2007 *Financial Crimes Report to the Public* [Federal Bureau of Investigation (FBI), 2008a] and its predecessor [FBI, 2007:4] have separate sections on corporate, security and commodity, health care, mortgage, insurance, and mass-marketing fraud; identity theft; asset forfeiture; and money laundering. The financial crime division of the UK regulator, the Financial Services Authority, includes fraud against and by the financial services sector (but not fraud by or against the *general* corporate sector), market abuse, and money laundering / financing terrorism. Financial crimes are dynamic in the sense that to an even greater extent than other crimes for gain, the prevalence, incidence, and techniques of particular forms of crime evolve over time in a process of adaptation between (1) the motivation

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of current and potential offenders to defraud, (2) the skills and organization of offenders *anywhere in the world*, and (3) the informal and formal controls engaged in by victims, potential victims, third-party guardians, and the criminal justice system [Levi, 2007a, 2008a, 2008b].

The main focus of the criminal law is upon well-defined actions of individuals: stealing from and/or physically injuring or threatening other people or damaging property. Fraud is mainly about getting goods, money, or services by "dishonestly" deceiving other people or institutions who would not supply them if they knew the truth about the intentions and financial circumstances of the deceiver; but it can also involve causing loss without any obvious benefit to self (other than keeping a job or getting a performance bonus that would otherwise not be given). It is often assumed that this is an economically rational process, but the ego satisfaction of being in control of others or impressing them is a significant driver of white-collar crimes as well as of violent "crimes of masculinity" [Levi, 1994]. Where rogue traders falsify financial records to avoid their superiors' realizing that they have lost money and dismissing them, or where traders continue to obtain credit when they cannot afford to repay their debts, in order "to keep the company going," claims of apparent disinterest are sometimes made to investigators and indeed in criminal trials, as if doing so negates any question of dishonesty. Causing harm *wrongfully* implies both that the conduct is regarded as harmful, whether to individuals, business, or general social interests, and that we believe that there has been some level of mental awareness on the part of suspects that makes them blameworthy. Depending on the jurisdiction, this involves (1) the setting of legal rules (intent and/or recklessness, that is, seeing that there is a risk and ignoring it) and (2) the judgment by both legal gatekeepers (police and prosecutors) and fact-finders (who may be judges, juries, magistrates, Scots sheriffs, etc.) that the potential accused or defendants had the mental element required by law to prove guilt. Perhaps tautologically, without opportunities also, motivation to defraud is insufficient.

11.2 Types of Financial Crime

There is a risk of overhomogenizing financial crimes. Fraud includes, for example:

- *Crimes by elites against consumers, clients, or other, lower-status businesspeople*. Such crimes include, for example, the looting of a bank or building society, which is particularly harmful in a country that does not have a full compensation scheme, since the losses are spread thinly; and misrepresentation of the quality of goods beyond

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mere inflation of the quality of what one is selling (otherwise most salespeople would be committing fraud).

- *Crimes by small-business people against consumers and employees*. Such crimes include, for example, selling counterfeit goods; and pocketing the pension or health contributions paid by staff, who are then left without benefits (which is theft but usually with long-delayed recognition of loss).
- *Crimes by professional criminals against elites or large corporations*. Such crimes include, for example, bankruptcy, "long firm" fraud [Levi, 2008a], major counterfeiting rings, mortgage fraud, and some "advance fee" frauds targeted at high-net-worth individuals.
- *Crimes by persistent blue-collar offenders or opportunists against financial institutions*. Such crimes include, for example, using lost or stolen credit cards and (for e-commerce) card data, and check fraud.
- *Crimes by individuals of various statuses against government*. Such crimes include, for example, EU fraud, social security frauds by landlords and claimants, and tax evasion.

Money laundering can include not just the proceeds of any or all of the cited crimes but also—now in most jurisdictions around the world—the proceeds of any other crime. A launderer can be the thief who puts the money from the resale of a stolen iPod into his personal bank account in his own name; the professional who deposits in his firm's clients' accounts funds that he knows or suspects to be proceeds of crime *or* are the proceeds of legitimate activity intended to finance terrorism; the money exchange bureau that aggregates large sums in cash from sources with no major known legitimate business and sends them overseas; or the banker who takes funds from a transnational corporation and deposits them in the false nominee account of a foreign or domestic head of state. This is a huge range of activities, and with police and prosecutors under pressure to get more convictions for laundering to satisfy international scrutiny, the "low-hanging" fruit are likely to be plucked first.

11.3 Concern about and Fear of Fraud, and Enforcement Responses

In relation to fraud, it is easy to see how emotions of fear might arise from the perception that the drugs one was taking for malaria or HIV might be inactive counterfeits, that there might be a higher-than-safe level of melamine in our baby or adult milk products (as in China in 2008), or that the car or airplane we are traveling in might contain unsafe fake parts (though what

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practical action might one take in such circumstances?). However, without constructing "Big Pharma" as a folk devil (like Harry Lime in the movie *The Third Man*), *counterfeiters* are hard to represent as an object of fear and hatred unless they are caught. Whatever the harm to corporate profits and possibly to the level of jobs in legitimate commerce, few people who illicitly download copyrighted music or purchase counterfeit DVDs from passing (often Chinese) illegal migrant workers, or buy cheap "Rolexes" on Asian street markets see this as a monstrous business. With some imagination, the prospective collapse of a retirement fund invested heavily in Enron or a bankrupt insurance company might fit within a "serious harm" framework. These are dangers and/or evils, and at an abstract level they may be recognized as such. It is also hard for outsiders to tell whether such risks are present or not until the harm materializes: the physical characteristics of goods or investment products do not enable the inexpert to tell whether or not they do what they claim, either now or in the future, and this is especially true of longer-term investment products, whose benefits may (or may not) materialize in the distant future. Claims of expertise are difficult to verify or falsify in advance. Hence the panic that sets in when people think their bank or other vehicle holding their life savings may go bust.

However the specific fraud component of such fears is harder to identify, since fraud is just one possible cause of economic catastrophe—of what, at a more aggregate level, economists term systemic risk. The credit crunch of 2008–2009 triggered by excessive bonus-driven loans to subprime borrowers (i.e., people who should never have been given loans and who had little or no chance of repaying), which loans were then packaged into bundles sold in a financial services version of "pass the parcel," shows us what happens when banks do not trust each other's ability to repay loans. However, for the most part, this represents bankers' fear of bank insolvency rather than fear of the banks or even their customers committing fraud. Thus, during September 2007, Western television screens and newspapers were treated to pictures of lengthy lines of people outside Northern Rock Bank branches in parts of the United Kingdom, queuing to withdraw savings, as people showed their fear of losing money because of possible bank insolvency.[*] Their fears were stimulated by the news pictures, and the panic occurred despite reassurance by financial and political elites that the bank was sound: it was the first run on an authorized UK bank since that on Overend Gurney in 1866.[†]

[*] A sight that was once commonplace in post-Soviet Eastern Europe but received far less attention in the international electronic media.

[†] Overend Gurney & Company collapsed in 1866 owing about £5 billion (in today's prices). For a broader discussion of fraud in the Victorian era, see Wilson [2006]. In 2008, bankers were reluctant to lend to other bankers, not because they feared fraud but because they feared that the counterparty would not be able to repay them when debts fell due. The entire business model relied on banks being able to borrow short-term funds cheaply on the wholesale money markets while lending long-term funds for mortgages.

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Intriguingly, given survey data showing high fear of crime, the fear of burglary or robbery of the cash withdrawn from those "hot spots" must have seemed far less relevant or important than the prospective failure of the bank to depositors. This was even though deposits up to £36,000 (now £50,000/US$80,000 as a response to public fears in the 2008 crises) were protected by a compensation fund. Even for those who might have objectively expected compensation, delayed access to their money was also seen as harmful and provoked anxiety. The government had to lend the bank £25 billion to stabilize it, and in February 2008 it took Northern Rock into public ownership [Brummer, 2008]. At that point, fears of insolvency disappeared and savers flooded back for the high interest rates in a context of an unlimited government guarantee. The savers in Northern Rock Bank were indeed protected, partly for political reasons, but partly because their potential losses were deemed to pose a systemic risk to the United Kingdom's reputation and to the banking system as a whole.

The hostility toward the fraudulent aspects of the credit crunch took some time to emerge in the United States; but by late 2008, antagonism appeared to be directed against the banks, their chief executive officers, and the faceless mathematical risk models they had used to hide the subprime lending practices' fundamental unsoundness for the common welfare, rather than just against socially marginal brokers. This followed the pattern noted during the U.S. Savings & Loans crisis in the 1980s. In the United States, there were allegations that in order to obtain commission from the lenders, mortgage brokers (1) lied to unsophisticated and mostly poor people about the interest rates and other conditions of their loans, as well as (2) helped them lie about their incomes in order to get mortgages [author interviews with officials]. In 2008, FBI investigations led to widespread arrests of hundreds of people. Many borrowers may be (rightly) fearful about their futures and may objectively be worse off than if they had not bought a home at all, but whether this distress and anger constitute fear or resentment about crime remains more doubtful. In a sense, if they had been more fearful of being cheated by their brokers, as well as less certain that house prices would keep rising, they might not have become (1) victims of poor investments and, arguably, (2) both fraud victims and fraud offenders, since many borrowers lied on their application forms whether or not they were deceived by mortgage brokers. Thus far (November 2008), the "mortgage fraud" (as contrasted with economic collapse) issue has been directed mainly at outsiders, but the role of major banking firms was included where it could be shown that they knew their loan books were worth less than they claimed.

The language in the FBI press statement emphasized the national scope and large roundup of arrests and also the involvement of senior managers of "failed Bear Stearns hedge funds," implying they had not just gone after "the little people" [http://www.fbi.gov/pressrel/pressrel08/mortgagefraud061908.htm]:

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> "Mortgage fraud and related securities fraud pose a significant threat to our economy, to the stability of our nation's housing market and to the peace of mind of millions of American homeowners," said Deputy Attorney General Mark R. Filip. "Operation Malicious Mortgage and our other mortgage-related enforcement actions demonstrate the Justice Department's commitment and determination to combat these criminal schemes, hold their perpetrators accountable and help restore stability and confidence in our housing and credit markets." [For the press conference, see http://www.youtube.com/watch?v=9fMlGGABcHs.]

The aim here appears to be not to cause or stimulate an atmosphere of revenge about mortgage fraud, but to reassure the public that the FBI and other federal agencies are doing something serious about the phenomenon. In media interviews, the FBI was keen to communicate that much of the proceeds would have been dissipated, so victims could not expect great returns on their losses. In short, this has more to do with managing public expectations than it does with the moral panic and deviance amplification spiral characteristic of responses to street crime. In most countries, the public authorities have a need to legitimate themselves bureaucratically in the eyes of the public by demonstrating a "reasonable" response to social threats. If and when public wrath arises, then in most countries official responses show some serious endeavor, though enforcement followups may be moderated in the years they take to materialize [Levi, 2009].

Unlike the Savings & Loans crisis of the 1970s, where multibillion-dollar direct losses (only some of which were clearly attributable to fraud) were confined to the United States, the losses from subprimes were also globalized through the sale to international financial institutions of Collateralized Debt Obligations and other financial instruments, rolling up large numbers of mortgages into a "security" (sic!), and the secondary derivatives market of Credit Default Swaps. However, here again, fear of economic and status loss is not the same as fear of fraud. An unintended effect of securitization was to induce bankers and regulators to believe that they could pass on the risks and spread them to the point of risk extinction. This turned out to be a serious error, since it (and their bonuses) induced them to accelerate levels of securitization past the point at which they became high risk and led, in some cases, to *bank* rather than to *risk* extinction. The human capacity for rationalization of self-interest in such circumstances is profound, especially if retribution is not anticipated from the criminal courts or from vengeful losers. As some bankers stated, they just could not afford to absent themselves from the "action" while it was taking place [Brummer, 2008]. It is questionable whether deterrence works in such circumstances, an issue to which we will return in discussing sentencing.

From 2008, the credit crunch and, in its wake, the rise in revealed mortgage frauds and other financial service misconduct gave police and prosecutors

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a renewed social mandate for serious action against financial crimes. For example, the FBI developed a sharper focus on fraud, even compared with terrorism. At the end of 2007, FBI field offices were dealing with 529 corporate fraud cases [FBI, 2008a]. This excludes cases involving the manipulation of accounts by top executives in those major corporations, among them Enron, Parmalat, Tyco, and WorldCom, which were not primarily financial institutions, though they used major corporate secrecy devices and banking facilities that facilitated fraud, and their frauds dominated headlines for a while when they were perpetrated. The Corporate Fraud Task Force (2008) set out its successes in terms of cases leading to convictions, and often to long sentences, though there was no mention of nonprosecutions, deferred prosecution agreements, or acquittals—a curious if all-too-common approach to reporting that, though fascinating in its details, fails to meet either the process or the outcome criteria for evaluation.

In summary:

- Financial crimes include a broad variety of deceptions against a spectrum of poor and wealthy individuals and businesses.
- Although their costs are sometimes amplified by entrepreneurs seeking to get more public and policing attention, financial crimes are higher than those conventionally seen as constituting "the crime problem."
- Though many major frauds are committed by corporate insiders (sometimes colluding with outsiders), globalization has enabled (1) the easier targeting of victims outside criminals' home territories and (2) the concealment of some major offenders and their crime proceeds from civil and criminal process.
- Regulatory policies tend to focus on financial services rather than "real" industry, though after the dot.com bubble and Enron collapses, rules were introduced to force more responsibility on senior directors. Given the long gestation of many frauds, it is too early to tell the impact of such measures.
- The more aggressive and proactive policing and sentencing of fraud in the United States compared with the United Kingdom, Australia, and other jurisdictions generate faster and more efficient sanctions for frauds, but whether this efficiency acts as a deterrent is unknown, especially given the ability to organize frauds from anywhere in the world.

11.4 The Extent and Costs of Financial Crimes

Financial crimes engender two dimensions of damage. The first is economic, perhaps best seen in terms of the effects on individual and corporate victims'

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abilities to restore themselves to the economic welfare level they enjoyed prior to their victimhood. The second is psychological and health related, including disruption of expectations of future security and welfare. What is the level of harm generated by different forms of financial crime? There is relatively little evidence, and what evidence there is differs significantly between countries (as do financial crime rates). Although some attempts have been made to estimate the prevalence of some white-collar offenses in some countries, the financial costs and other impacts of deception offenses have been more items of rhetoric than of serious empirical investigation. Some criminological texts juxtapose the (uncritically accepted) heavy costs of white-collar crime with the much lower costs of street crime, for account for most imprisonments [see, e.g., Reiman, 2007]. Unfortunately, economists have made no serious attempts to asses the collateral damage caused by fraud or other forms of financial crime.* The United Kingdom, and also Australia and the United States, allocate relatively modest resources to investigate, prosecute, and punish white-collar crimes (data for most countries being unavailable), despite the fact that individual high-profile cases may be extremely expensive to investigate and prosecute.

Following a systematic review of existing studies commissioned by the British Home Office and the Association of Chief Police Officers, excluding income tax fraud, which is difficult to estimate, and intellectual property crimes, which are seldom properly considered fraud,† the direct costs of fraud were found to total a conservatively estimated minimum of £12.9 billion, fairly equally distributed between private and public sectors [Levi et al., 2007; Levi and Burrows, 2008]. Comprehensively collated or critically assessed cost information is not available for most types of fraud in the United States [though see biennial surveys by ACFE, 2008; and also Friedrichs, 2006; Rosoff, Pontell, and Tillman, 2006]. The FBI [2007] states that at the end of fiscal year 2006, 490 corporate fraud cases were under investigation, 19 of which were said to involve losses to public investors of over $1 billion. However, the extent to which losses from corporate collapses are *all* attributable to fraud is doubtful, though seldom questioned, and, as is commonplace, give no information about how these data were reached or how they could be tested.

* Estimates of the broader impact of street and household crimes are themselves not uncontroversial, since there is much scope for disagreement on the criteria by which we should estimate collateral damage. Some studies have tackled the costs of organized crime, which involves the still more difficult task of combining often victimless crimes with particular modes of crime delivery, that is, setting a threshold for the label "organized" [Dubourg and Prichard, unpublished].

† People buying counterfeit products almost invariably know they are fake because of the price and context, though sometimes stores sell counterfeit products as genuine. Many purchases count as genuine losses to manufacturers and legal distributors, but they are not fraud losses.

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Many estimates of fraud and money laundering are based on very limited evidence, derive from institutional profile raising, and take on a life of their own as "facts by repetition," seldom critiqued either by media hungry for sensation [Levi, 2006] or by pressure groups (and some academics) happy to swallow "evidence" of the enormous costs of white-collar crimes. On the other hand, if we rely on cases brought to conviction, the data may be absurdly low in both harm and case complexity, the most subtle cases of fraud and money laundering being hardest to prove beyond a reasonable doubt. We must be careful to avoid throwing out the baby with the bathwater and of using only very low figures from convictions and treating them as "the figures," rather than just as the validated baseline figures [see Levi and Burrows, 2008; Levi and Reuter, 2006].

The elapsed time from fraud to discovery and then from discovery to criminal justice action, if any, means that unlike such "volume crimes" as credit card fraud, many of the larger frauds coming to light in 2008 and 2009 will have been committed some years before. One example is the rogue trading in illicitly—and, perhaps more important, unsuccessfully!—betting on market trends, as by Nick Leeson at Barings in 1995 [http://www.nickleeson.com] and allegedly by Jérôme Kerviel at Société Générale in 2007–2008. In both cases, the primary accused alleged that more senior managers turned a blind eye to the risk taking either because they were incompetent (Barings) or because they stood to gain if the risks paid off (both Barings and Société Générale). The popular explanation for this, and other excrescences of the financial sector, is that it is caused by greed. However, greed is not a helpful discriminator between those who both see and exploit fraud opportunities and those who do not.

11.5 Responses to Financial Crimes

Fraud and intellectual property violations involve a range of victim-offender relationships and techniques. One might think of individual, business, and governmental responses, which can be interwoven and only some of which involve the criminal justice process. We might also think of the resources and skill sets needed for different forms of financial crime and examine how, if at all, these cluster and may be dealt with to minimize harm.

Paradoxically, one of the things we can learn from the way we have traditionally controlled white-collar crime is that less punitive and criminal justice–dependent forms of control, and those that are more social based, are possible. These include individual and collective efforts at prevention or loss mitigation and involve self-regulation and formal regulation (e.g., financial services), supplemented by formal criminal justice controls. One difficult policy question is recognizing where market failure occurs, that is, when

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self-regulation is bound to be inadequate, and assessing when that failure is sufficiently serious to require major interventions (though there is no scope for zero-tolerance models). In the light of the seismic crashes of the financial services industry in 2008, it is certain that market failure has arisen from reckless lending, even if that is not defined as fraud.

The growth of multilateral information exchange and mutual legal assistance agreements has boosted variable national efforts to combat financial crime. However, it is extremely unlikely that all types of fraud will be included in practice. For despite the growth in public concern about direct and indirect (through pension funds) investments in the stock markets, and about identity theft and other crime risks associated with the e-world, fear of crime is more difficult for the authorities to develop and sustain for white-collar frauds than for organized crime and terrorism (and they also have less motivation to do so). Though banks often report frauds under money-laundering regulations, police in many jurisdictions make comparatively little use of these reports as an investigative trigger or to locate proceeds [Fleming, 2005].

Lawmakers and resource grantors both respond to and help create social constructions of harm. Despite the enormous influence of big business, but in keeping with the more general moral entrepreneurship of U.S. "law and order" politics [Simon, 2007], the U.S. media, politicians, and law enforcement officials are more likely than their U.K. counterparts to discuss white-collar crimes. This applies both for crimes against business (e.g., credit card fraud) and those against investors (especially senior citizens), committed by businesses, both legitimate and run by racketeers. Efficient markets and popular capitalism depend on some level of trust, which is in the interests of capitalism to sustain. Elaborate mechanisms try to ensure that such gatekeepers as accountants, bankers, credit rating agents, lawyers, and stock analysts do not let management defraud significant sums, and anti-money-laundering legislation requires such gatekeepers as bankers and professionals to report their suspicions to the authorities. However, as revealed by Enron and other huge corporate scandals exposed, though not begun, in the twenty-first century, excessive closeness of "independent professionals" to their clients, the bonus focus of individual partners within professional firms and within business, and the normality of offshore special purpose entities and other nontransparent forms of business structure that reduce tax and other liabilities, but conceal self-dealing, all serve to facilitate fraud and international money-laundering schemes.

Some large aggregate frauds against government, such as evasion of excise duty on smuggled alcohol and tobacco, are viewed as serious organized crime threats in high-tax countries [OCTA, 2008; SOCA, 2008], but even those that are not organized, in that special sense, generate huge losses. Our aging population and the privatization of pensions and savings have

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created new classes of victims requiring protection. In addition, the Internet has intensified the risk of transnational fraud through telemarketing, more temptingly than by mail or random phone call lures that can then be followed up by such old-tech methods as the telephone. Such telemarketing frauds tend to be carried out more by middle-class than proletarian criminals [Shover, Coffey, and Hobbs, 2003], and they have better verbal skills to prey on the rising number of people with spare disposable wealth apparently on the lookout for better-than-average returns on investment. This, combined with pressure from antiracketeering enforcement in traditional Mafia businesses, stimulated some American Mafiosi to ally themselves with Russian-origin and with non-Mafia Americans who have the skills and front companies to exploit fraud opportunities [Block and Weaver, 2004; Diih, 2005]. However, proactive monitoring does not work against those fraudsters who are not associated with "the usual suspects," who are kept under surveillance or infiltrated; especially when overseas, they may end up in the "too difficult" category for hard-pressed or ill-motivated police to pursue.

The FBI [2007:4] states, "Based upon field office crime surveys, current trends in the White Collar Crime arena, and directives established by the President, the Attorney General, and the Criminal Investigative Division, the following national priorities for the White Collar Crime Program have been established: Public Corruption, Corporate Fraud/Securities Fraud, Health Care Fraud, Financial Institution Fraud, Insurance Fraud, and Money Laundering." When they fall below $1 million in aggregate scale, most common consumer scams tend to be dealt with, if at all, by the Federal Trade Commission or by state and local police or regulators, rather than by the FBI. (There are parallels in the United Kingdom, except that the alternative to a case being dealt with by a police Fraud Squad or Economic Crime Unit is no criminal justice intervention at all.)

Financial crimes are not the only offenses that present difficulties for policing, but in the hierarchy of transnational threats, they are ranked lower than terrorism and organized crime, though there is some overlap. If Canadian or multicountry "boiler room" stock fraudsters or telemarketers operating from Spain defraud British or American victims and place the funds in a noncooperative offshore finance center, who will have sufficient motivation to spend vast sums of money investigating the case and preparing it for prosecution with an uncertain outcome? American agencies typically have more money to spend than their counterparts around the world, especially in developing countries, but parochial interests predominate everywhere.

Another policy response, derived from organized crime is to stimulate fear and risk of detection by covert operations and conspirator betrayal. This includes FBI sting operations and the policy that generates lenient treatment for the first person or company to volunteer information about a cartel prior to government investigations of it. Such inquiries require considerable skill

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and freedom from political interference, and they can go disastrously wrong [Greising and Morse, 1991; Eichenwald, 2001]. Connor [2006] notes that the United States is almost always the first to investigate and sanction international cartels, and its investigations are about seven times faster than those of the EU, the second most powerful trust-busters. (See Beaton-Wells and Fisse [2008] for a thoughtful critique of Australian anti-cartel legislation and practice.)

For corporate misconduct committed by top management, greater corporate governance is one approach. In the United States, the Sarbanes-Oxley Act of 2002 established a new quasi-public agency, the Public Company Accounting Oversight Board, to oversee, regulate, inspect, and discipline accounting firms in their roles as auditors of public companies. The act also covers such issues as auditor independence, corporate governance, internal control assessment, whistle-blowing, and enhanced financial disclosure. Quite apart from the need to do something, the aim is to reduce the risk of reoccurrence of such major corporate scandals as Enron and WorldCom. However, endemic conflicts of interest and the right of chief executive officers (CEOs) to choose their own auditors (who may also receive generous fees for corporate consultancies) lead many to question the benefits compared with compliance costs. The French Société Générale case of 2007–2008 indicates the importance of internal audit and followup of allegedly unauthorized trading, at least for cases that do not involve the complicity of top management.

As for criminal and administrative penalties, the absence of systematic reoffending data and general offending data makes it difficult to be clear about what works and for which types of financial crimes [Braithwaite, 2002, 2005; Korsell, 2004]. Besides, as with policing, it is difficult to know what the purposes of sanctions are; quite apart from deterrence or crime reduction, penalties can combine retributive or demonstrative effects to show that the act is serious, with penal populism motivated by the desire for reelection. Hence, the result is, in part, the popularity of asset forfeiture as a way of showing the public and potential offenders that the fruits of crime will be returned to the public and identifiable victims.

11.6 Punishing Financial Crimes

Whereas in many parts of the world, populist pressures have highlighted retributivism in narrowing the justice gap and in "just desserts" sentencing, in financial crimes, the picture has always been more complicated. Analysis of the prosecution, regulatory sanctioning, and criminal sentencing of different forms of fraud and social backgrounds of fraudsters brings into sharp relief tensions between

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- Backward-looking reflections of the gravity of offenses;
- Forward-looking focus on the risks and consequences of *future* harm to particular categories of victim, including "the state"; and
- Social fairness in the treatment of offenders of different social statuses.

One reason people may be interested in fraud sentencing is to test (or to affirm!) the hypothesis that the powerful are treated leniently [Reiman, 2007]. A traditional difficulty in analyses of the fairness or bias in sentencing is that people who reach the sentencing stage are those who have not been filtered out earlier by conscious or unconscious discretionary decision making. In the particular case of fraud, even in countries that theoretically operate the continental European "legality principle" (i.e., where prosecutions must follow the finding that the evidence is sufficient to merit conviction), rather than the Anglo-Saxon-Dutch "opportunity principle" of prosecution, the availability of such noncriminal alternatives as regulatory or administrative law sanctions (or, sometimes, suppression of allegations!) means that we must be careful in our interpretations of sentencing practices to take account of unprosecuted *potential* criminal cases whose rationale may be absent or ambiguous. Thus, it is not obvious how we adjudicate between hypotheses that (1) there is a bias against prosecuting the powerful and (2) inequality between "crimes of the powerful" and "crimes of the powerless" is an accidental, unintended product of such wider criminal justice processes as plea bargaining that are uneven in their application [Katz, 1979]. Here, provided we have some empirical baseline, comparative analysis, insider whistle-blowing, and changes in prosecutorial conduct over time (e.g., at times of "moral panic" about corruption or white-collar crimes [see Levi, 2009] or efforts to get rid of elite rivals) all may help us. We might also, where possible, take account of those cases pursued by advice and civil injunctions, in accordance with the future-oriented model supported by regulation advocates (see Hawkins [2002] and the restorative justice movement generally). Bearing in mind these methodological difficulties, let us examine sanctioning processes.

The distinguishing character of fraud is that it is, in essence, a *means* of generating gains to which we are not entitled legally. If past harm and future risk point in the same direction, the sentencing task is relatively simple, though fairness *between* offenders may still be an issue, both for academics and because a sense of injustice may fuel increased recidivism. However, in some frauds, the harm may be great but future risks may be small (unless the offenders can commit future frauds and laundering by means of nominees). Some might argue that judges have undervalued the seriousness of some or all types of fraud. It is important to bear in mind, however, that neither probability nor severity is

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a continuous variable affecting deterrence;* and some important consequences for high-status offenders arise from conviction or even from bad publicity alone, irrespective of what formal punishment is imposed.

Wheeler, Mann, and Sarat [1988] interviewed U.S. federal judges in the 1970s and identified the "paradox of leniency and severity" in the sentencing of white-collar crimes. On the one hand, judges generally do regard the breach of trust by people in high positions as deeply reprehensible, except where it can plausibly be portrayed as inadvertent; on the other, they are normally faced with sentencing people for whom the offense is out of character—that is, they have not been convicted previously†—and who have often lost a well-paid job simply as a consequence of conviction or even for a breach of in-house rules. In some cases, the convicted not only see their incomes fall but also may, where authorization is mandatory to act in financial services or law, be prevented by the fact of conviction or disciplinary sanctions alone from committing the offense again, at least directly in their own names. Judges are torn, then, between concern to reflect the seriousness of the crime and human concern about the offender's fall from grace, for they can imagine how they would feel were they in his (or, more rarely, her) position. Judges may sometimes see white-collar defendants as being more affected by social degradation than they actually are. But errors can be made in either direction. One area where there are few parallels with most ordinary offenders is that professional sanctions can also create the possibility of incapacitation without custody. However, here, too, it is important to make distinctions *within* fraud: It is much harder to cut off bankruptcy and credit card fraudsters from crime opportunities so readily as people who need authorization as "fit and proper persons" to practice their professions. Street and household crime, and credit card fraud, are open to all.

The comparability issue is particularly difficult because popular, media, and political constructions of harm prioritize offenses involving actual, threatened, or perceived threatened violence and both burglary and, especially, robbery contain those elements. Moreover, fraud offenders, whether particular individual or corporate elites, typically have fewer previous convictions than is the norm for other offenses; in a system where prior criminality (or convictions) is important, this makes a big difference. There is

* That is, we do not know scientifically the extent to which it makes a difference to deterrence whether a fraudster gets a 3-, 4-, or 10-year sentence, but it seems implausible from general sentencing research or common sense that a jump from a suspended to a 2-year jail sentence will have the same or less effect than a jump from a 2- to a 4-year sentence, and so on. Likewise, there will be differences in the risk appetite of businesspeople contemplating offenses, and we do not know the tipping point at which perceived probabilities of detection will deter, nor what fraudsters believe about those risks, which will vary by type of offense as well as personality.

† Though they may have had prior regulatory violations for which they and/or their firms have been sanctioned or dealt with "by advice" but which are not normally admissible as evidence of bad character.

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no obvious metric for balancing very large sums obtained by fraud or theft against violence, though we implicitly do so in current practice and in the way we talk about the fairness of sentences. It is difficult to steal very large amounts of money or property nonviolently *without* abusing trust. Fraud and forgery may be best compared with theft and the handling of stolen goods; but in both cases, the aggregate statistics are comprised of very large numbers of smaller cases, though "small" in fraud is often seen in relation to multimillion-pound cases rather than in relation to much smaller average values in thefts and burglaries.

11.6.1 Sentencing in Serious Fraud Office Cases

The UK Serious Fraud Office (SFO) deals with the top layer of "serious or complex frauds" other than tax frauds. However, it deals with only about 15 trials annually, so the total of fraudsters sentenced is not large; and given that many involve multiple defendants, there is significant within-case variation that makes presenting average sentences a little misleading. One might take the top sentence in each case as a better indicator, though there are issues about whether sentencing theorists or practitioners have properly conceptualized the importance of support roles (and the deterrence of potential supporters who may be necessary to fraud commission or may be potential whistle blowers).

Altogether, counting suspended sentences as zero, since none were known to be activated, the 109 persons convicted in SFO cases in 2000–2005 received an average of 31.7 months' imprisonment. Out of the 53 cases in which convictions were obtained in this period, the average sentence of the *most severely sentenced* person per case was 37.7 months' imprisonment. Eight persons received sentences longer than five years; 19 people received four-to-five-year sentences; 22 people (mostly codefendants in cases where others were imprisoned) received noncustodial sentences; the median sentence was three years' imprisonment. In terms of time actually served, the real sentences are likely to be half of the formal sentences imposed.

For frauds against business creditors, the average was 27.4 months; investment frauds against business investors, 37.7 months; investment frauds on individuals, 40.4 months; market abuse, 12 months (though in one of the two cases, all four defendants received suspended prison sentences, showing how distorted averages can be); procurement fraud and/or corruption, 19.9 months; and frauds on government, 36.8 months (but only three cases). In 17 cases (about one-third), at least one defendant was disqualified from company directorship—a sentence not available in the United States—for an average of over seven years. This reflects not just legal powers but also a belief that this is an appropriate financial punishment

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Table 11.1 Serious Fraud Office Sentencing, 2005–2008

	2005–2006	2006–2007	2007–2008
Defendants convicted	13	15	17
– Custody immediate	12	14	15
– Custody on appeal	—	1	—
– Custody suspended	1	—	2
Disqualified as company director	4	7	12

(reducing future earnings) and will be effective as incapacitation. The latter would certainly affect those who need to play an upfront role as a director, but the extent of "shadow directorships" among those subject to disqualification is unknown and very difficult to discover even in principle.* In 2007–2008, 15 SFO defendants received immediate custodial sentences, the other two receiving suspended jail sentences. Sentences ranged from 8 months to 7.5 years. Twelve of those convicted were also disqualified from acting as a company director. Eight confiscation orders were made in 2007–2008, amounting to more than £42 million. These data are summarized in Table 11.1.

11.6.2 Sentencing in Tax Fraud Cases

To provide some historical perspective for comparison, in 1990–1991, 59 people were convicted for value-added tax (VAT) fraud and received sentences between six months and 7.5 years and fines totaling £405,615; HM Customs & Excise dealt with 63 cases by compounding,† netting £4.8 million in fines and saving the trial costs as well as freeing investigation officers for other inquiries. Inland Revenue statistics for this period were less penetrable, for they stated nothing about sentences. In 2005–2006, there were 24 prison sentences in income tax, new tax credit, and VAT fraud cases, plus 106 prison sentences for excise fraud. During that year, there were six successful prosecutions for Missing Trader Intra-Community (MTIC) fraud

* If the companies to which they are shadow directors get into visible trouble, there may be a reasonable chance that their involvement will be uncovered (if there are financial traces or if anyone informs against them). However, we may overestimate the extent to which director disqualification and even deauthorization from financial services actually incapacitate.

† Compounding refers to a situation in which a suspect taxpayer voluntarily makes an offer on his or her initiative to a VAT investigating officer, though this voluntariness usually occurs within a context in which a criminal prosecution and the collateral damage consequent upon it is seen by the volunteer as the next step in the process. Unlike many pleas of guilty "on the courthouse steps" in criminal cases, this usually happens at an early stage in the process, saving more investigative and legal costs as well as scarce investigative resources [see http://www.hmrc.gov.uk/manuals/bimmanual/BIM31610.htm].

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(sometimes referred to as VAT Carousel fraud), resulting in 18 convictions with sentences totaling 72 years' imprisonment. Her Majesy's Revenue and Customs (HMRC) also took action against 29 companies involved in MTIC fraud, resulting in £9.4 million being recovered or frozen. Frauds involving VAT and MTIC have received some media and political alarm within the United Kingdom and Europe generally, and one would expect sentencing to rise substantially because of changes in the perception of their harmfulness to the economy and society: thus in January 2007, one £54 million carousel fraudster was sentenced to 15 years' imprisonment and codefendants to 4.5 years and a suspended jail sentence). In 2007–2008, 40% of tax defendants, including in cases involving low-level tax credit fraud, received sentences for longer than 3 years; 29% prison sentences of 3 years or less; and 31% noncustodial sentences [RCPO, 2008].

11.7 Approaches to Sentencing

Unlike many continental European jurisdictions, there is no unitary prosecution authority in the United Kingdom: bankruptcy offenses, social security frauds, and tax frauds are prosecuted by specialist bodies separate from the Crown Prosecution Service, which handles all police-investigated cases, and the Serious Fraud Office that handles the top tier of nontax frauds. Although the need to be human rights compliant has brought utilitarian and retributivist approaches to criminal justice and to sentencing procedurally much closer, there has historically been a major difference between them, with the compliance model of corporate and individual misconduct (e.g., in financial services) aiming to maximize social utility irrespective of differential treatment of cases, and the traditional criminal justice model taking a simpler approach of punishing for past behavior that disregards economic or social cost-benefit analysis. Even within the arena of fraud, one finds big differences in the extent to which prosecution follows detection, which relates to neither evidence-led harm nor culpability but, rather, to investigative and prosecutorial difficulties, departmental traditions and resources, the possibilities of compensation and penalties being paid, imagery of evil, and so on. Despite shifts in policy arising, for example, from the merger of the Inland Revenue and Customs & Excise into Her Majesty's Revenue and Customs and into the separate Revenue and Customs Prosecutions Office (RCPO), these differential interfraud prosecution risks are very difficult to justify other than on purely pragmatic grounds. We will discuss the array of non-conviction-based sanctions that can have both a retributive and an incapacitating effect on those affected. Whether these or any other penalties have much of a *general* deterrent effect has not been demonstrated.

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In retributivism, there are two dimensions of sentencing, harm and culpability, around which various aggravating and mitigating factors are clustered. As regards the harm of fraud (collective, singular) or of frauds, the courts have been fairly silent except in relation to "abuse of trust" as an aggravating factor justifying a higher sentence. In general sentencing guidelines, the targeting of "vulnerable victims" is another aggravating factor, but the question is what counts as vulnerability in relation to frauds? Wasik [1998:116] argues that corporate victims are generally less harmed than are other categories of victim; but without some measurement criteria, this is no more than a plausible assertion, even disregarding the distress caused to bank staff when there is a robbery or a staff kidnapping. In a sense, his generalization is a tautology, since a business can feel no direct pain: only its staff, directors, and shareholders can do so. One would expect greater impact or harm where there is an element of being deceived while making a personal judgment, and/or where victims feel foolish in the eyes of their peers should the latter come to know.

Retributivists state that harm aggravation and mitigation cannot properly apply on the basis of an individualized reaction to a particular crime because offenders must take victims as they find them. Nevertheless, some classes of victim—such as small businesses and elderly people—may be held to be especially vulnerable.* Elderly fraud victims may have less working time to recoup their losses, so harm might typically, though not invariably, be greater. (Contrariwise, older people have a shorter period to live and thus may have less time to suffer a lower standard of living.) How one translates broken dreams and damaged expectations (and bribery, domestic and transnational) into standardized criteria, especially monetary value, might be a matter of some dispute. But not without controversy, damage to mental and physical health has been measured more prosaically by health economists in terms of QUALYS, which purport to measure the quality of life [Dubourg, Hamed, and Thorns, 2005].

Fraud sentencing has received little systematic attention in England and Wales, perhaps because comparatively few high-social-profile major corporate cases have reached that stage there. The Sentencing Council [2009] set out a consultation paper on fraud sentencing in 2007, and in 2009 it issued consultation guidelines. In this respect, England and Wales are unlike the United States, where the U.S. Sentencing Commission [2003] was specifically tasked post-Enron to review sentencing of white-collar crime, and where the U.S. sentencing statistics generate more readily

* In 2009, the attorney general announced that the RCPO would be merged into the Crown Prosecution Service,but that its resources would be ring-fenced for two years. Whether this will change prosecution policies is unknown at this time, but most of the decisions not to prosecute are taken preemptively by HMRC when deciding to pursue civil or administrative penalties: these automatically eliminate the risks of imprisonment.

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analyzable data. No countries present sentencing data in a particularly illuminating way for the purpose of testing the relationship between sentence and the sorts of victims harmed—the understandable result of their using legal rather than victim or behavioral categories as a method of classification. We hear most about the high-profile cases, but it is easy to get these and the aggregate U.S. sentences for white-collar crimes out of context. American sentencing levels and imprisonment per capita population are so much higher than anywhere in Europe or Australasia, other than China and Russia, that it is tempting to advocate using sentence ratios for fraud versus for other property crimes rather than to look at fraud sentences in isolation. This would be one measure on which to judge the attractiveness or rationality of fraud compared with other offenses that "professional criminals" might commit. On the other hand, for a subset of fraud offenders, among them business elites or "criminal professionals," it might be defensible to think of deterrence or retribution in isolation from other sentences, since the substitute would seldom be other forms of offending. (However, the symbolic nature of sentencing as a gesture of moral and social censure cannot be so isolated, since even if social elites saw a short prison sentence as agonizing, the public and the media might see it as too soft.) For those habitual offenders in a position to commit frauds of particular types, on the other hand, the relative consequences of conviction may stimulate a shift toward or away from particular offenses.* When looking at the relative attractiveness of plausible crimes, one might have to think here in terms of clusters of transferable skills and contacts possessed by different offenders: both bank directors and junior staff in the accounts or purchasing department may find it easy to commit fraud while in the post, but once dismissed, and depending on how transparent their employment history is, they may find it very difficult to reoffend.

One difficulty for comparison arises from legal categories. The federalization of U.S. criminal law (e.g., "wire fraud") means that many minor cases are included in the U.S. data, concealing the high-end sentences within both mean and median sentences. This broad spread led Weisburd, Wheeler, Waring, and Bode [1991] to characterize the federal cases they examined as "crimes of the middle classes" as opposed to upper classes, though a significant proportion of offenders were blue-collar in background, so even this is a misdescription.† Hence, the longer average and median sentences for

* A Cardiff University doctoral study by Diih [2005] documents through wiretaps the way that some American-Italian Mafia families in New York were encouraged to move into securities fraud from their normal forms of racketeering by the low sentences and big profits of the Boesky and Milken frauds of the 1980s. However, this was also induced by the push factor from tough RICO prosecutions and sentences.

† It seems plausible that outsider fraudsters would be more blue collar or connected with organized crime, whereas insiders would be more middle and occasionally upper class. Whether this distinction ought to be relevant to sentence is open to debate.

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embezzlement and tax offenses in the Southern District of New York, where the big Wall Street cases tend to be handled, compare favorably with the federal system nationally, though these averages of under two years are still not long compared with sentences in the well-publicized scandal cases; and for all the rhetoric about deterrence, they are little different from British fraud sentencing. However, not all major frauds are prosecuted federally, and there is more scope for departure from guidelines in the state system, as well as in the federal system after rulings that guidelines are merely advisory.

Alone among the Western nations in abiding by both common law and civil code, Britian traditionally expects the prosecution to stay out of the sentencing process and neither advocates a particular sentence nor proactively refers judges to any precedents for sentence unless asked. The general level of sentences in the U.S. federal and other sentencing guidelines has a powerful effect on the earlier decision stages, including plea negotiation, "proffers," and the twenty-first-century trend toward "deferred prosecutions" used to elicit changes within institutions that might, if prosecuted, lose their licences to do business (e.g., KPMG in the U.S. tax shelter case). It is unlikely that senior staff and companies such as AIG, Arthur Andersen, Enron, and WorldCom—or even, in U.S. tax prosecutions, conceivably KPMG—would have cooperated with the prosecutors or settled tax, SEC, and New York cases if it were not for the prospect of lengthy prison sentences and no sentencing discount unless they both confess first and implicate others. It is inconceivable that so many people in Enron would have been prosecuted or pleaded guilty were that case to have been prosecuted in the United Kingdom. This is stimulated by the pressures placed on businesses that wish to avoid indictment or to reduce financial penalties not to pay their staff's criminal defense costs for fear of being viewed as "uncooperative" within the controversial Thompson guidelines, which mean that corporations do not receive credit for cooperation if they are not deemed by the prosecutors to be behaving appropriately.* The Prisoner's Dilemma model has been incorporated into administrative penalties for cartel and allied offenses at the British and European Commission as well as the American level. Equity apart, much may depend on how plausible it is that fraudsters are part of some wider offender or rule-violator networks: No systematic evidence on that issue exists anywhere in the world.

* Stating that the government "let its zeal get in the way of its judgment" and "violated the Constitution it is sworn to defend," Southern District of New York Judge Lewis Kaplan, in *United States v. Stein*, S1 05 Crim. 0888, found that prosecutors had violated the Fifth and Sixth Amendments by "causing *KPMG* to cut off legal fees and other defense costs upon indictment" [see, e.g., *New York Law Journal*, June 28, 2006, http://www.law.com/jsp/article.jsp?id=1151399128531]. He was highly critical of prosecutors' interpretation of the Thompson guidelines, viewing their conduct as oppressive.

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The importance of the supertough sentences in generating compliance can be overstated, even if one considers that there is sufficiently principled justification for imposing them. If white-collar defendants' prime motivation is to avoid a conviction that will have serious career consequences and/or public stigma, then unless they feel they have little or no chance of avoiding conviction (in which case, the benefit to prosecutors is correspondingly lower except at a very early stage), the expected sentence levels on not guilty pleas may be relatively unimportant unless the levels are very high (as Jamie Olis found when sentenced to 24 years without parole in the Dynegy case, though he was resentenced to 6 years in 2006 after a successful appeal).* As Mann's study [1985] of white-collar defenses in pre-guidelines days shows, the system of "proffering" and informal discussions with prosecutors occurred in the context of there being assets to trade. Given variations in types of fraudster, however, it must be considered carefully whether this model is readily transferable to other national offender sets and if so, to whom and in which countries. This model might be expected to work best where there are rings of offenders or Enron-style hierarchies to unravel.

11.8 Fraud Sentencing in Continental Europe and in the United States

It is to the United States that the United Kingdom and some other nations commonly look when reviewing sentencing, partly for linguistic reasons but also, as in other criminal justice policy transfers, because they are considered to be culturally closest as a capitalist economy. Information on fraud sentencing in Scotland is sparse, although in 2007–2008 the average sentence for those imprisoned for fraud was 8.5 months: three people received six years or longer; six got two-to-four years' imprisonment; and thirty-five, from 6 to 24 months [Prison Statistics Scotland, 2007–2008].

Systematic research on European fraud sentencing practices is absent. However, this author's informal consultations led to response from a Dutch colleague, who noted:

> High-level fraud cases with "respectables" in the dock usually end with a "conditional" prison term (or on parole) and a community service order. Lower-class fraudsters go to prison, but rarely get more than two years. The offenders in the building scandal (cartel forming, documentary fraud, and corruption plus participation in a criminal organization) received probation

* The technicalities of this are unimportant to a British audience [see Pollack and Murphy-Johnson, 2006]. Part of Olis's appeal rested on the unconstitutionality of what amounted to trial without jury in an American context, the judge using estimates of harm that had not been considered by the jury when reaching its verdict.

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> plus fine. One investment fraudster (about €120 million damages) is in pretrial custody and I predict an 18-month sentence, of which 8 months will be on probation minus pretrial detention term. One can get statistics from the Central Statistics Office if one searches on the legal articles "documentary fraud" and "tax fraud." But given the low public and political interest, these statistics have never been requested.

Ahold had overstated its earnings by more than $1 billion from 1999 to 2002, mostly by inflating sales at its U.S. food-service unit. In May 2006, a Dutch court subsequently fined Cees van der Hoeven, Ahold's former chief executive, and A. Michiel Meurs, its former chief financial officer, €225,000 each, after convicting them of fraud, but it rejected the prosecutor's request to imprison them, giving them both nine-month sentences suspended for two years. Jan Andreae, former executive board member in charge of Ahold's European operations, was sentenced to four months in jail, suspended for two years, and was fined €120 million.

In Sweden, where sentencing is generally not severe by UK standards, a former chief executive of Sweden's biggest insurance group, Skandia, was, in May 2006, sentenced to two years in prison for agreeing to large bonuses for executives without board approval, a case that had aroused serious cultural concern in Sweden. In 2000, Lars-Eric Petersson, chief executive of the group from 1997 to 2003, had removed a ceiling on an executive bonus program without authorization, which led to executives receiving an extra SKr156m (€21m) in payments. Petersson had not been a beneficiary of the bonus program. "Lars-Eric Petersson was not authorised to take away the ceiling … by doing so, he abused his position of trust in Skandia, causing damage to Skandia itself," the court stated. It found no evidence to support a second charge that Petersson had increased his pension by SKr37m, also without board approval, and rejected the prosecutor's request to ban Petersson from holding other industry positions.

Huber [2003:32–33] noted in her review of the way Germany dealt with economic crimes:

> Sanctioning practice in white-collar cases is difficult to establish, because the statistic does not indicate any details as to certain sectors of white-collar crimes. However, fines are prevailing, 80[%] to 90% of the sentences are fines when it come to the regular white collar offenses contained in the Penal Code: bankruptcy and environmental offenses, handling of employers' salaries. When a prison sentence is imposed at all it is mostly suspended; in less than 10% of sentences for offenses that count for economic crime the imprisonment was unconditional. Out of the additional penalties contained in the Penal Code only prohibition to work in one's profession (§§ 70 ff StGB) is of certain significance though the preventive potential of this measure is considered to be high. Forfeiture and confiscation of assets and objects however (§§ 73 ff StGB)

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> are used more often (food and wine laws, copy right law). Further to mention is the fine against collective entities for breaches of competition law. Under § 30 OWiG the amount of the fine can be three times as high as the advantage reached by the offense or violation of regulatory rules (OWiG). [Examples are fines of 284 million against the producers of power cable who entered into a cartel, or against the producer of traffic signs of 3.7 million.]

A characteristic of the economic chambers is the generally lower tariff than that we find in judgments of the regular courts. In particular, when one compares the penalties after a full trial and those that are the consequence of a guilty plea, the inconsistency is most striking.

In the first of the trials for the multibillion-dollar losses of transnational food company Parmalat, in Milan in 2005, 11 defendants pleaded guilty in plea bargains. The longest sentence, two years and 6 months, was given to Fausto Tonna, a former chief financial officer. Gian Paolo Zini, a lawyer who set up some offshore companies that were used to hide billions of dollars in debt and losses, was also given two years. However, these sentences may be served in the community, a decision to be made by another judge. Two of the sentenced are related to Parmalat's founder and former chairman, Calisto Tanzi: specifically, to Stefano Tanzi, his son, and Giovanni Tanzi, his brother, both former board members. They were both sentenced to one year and 11 months in prison.

The sentences in the more prominent American cases reach 25 years. One important feature of U.S. sentencing guidelines is the impact of assistance to the prosecutor on downward variation in sentence. Noteworthy here are comments made on July 11, 2006, by the 11th Circuit Court of Appeals in the case of *United States v. Martin* (Michael Martin), which for the second time ruled that the sentence issued by the district court was insufficient, despite the defendant providing cooperation. The court decided that a huge departure from the guidelines for cooperation leading to an ultimate sentence of seven days' imprisonment for a multibillion-dollar securities fraud was unreasonable. Martin, a former CFO of HealthSouth, provided evidence against Richard Scrushy at his HealthSouth-related trial, in which Scrushy was found not guilty. Despite this cooperation, the government argued that a 23-level guideline departure was unreasonable. The appellate court found the sentence "shockingly short," despite his forfeiting $2.375 million. On September 12, 2006, Martin was given 36 months' imprisonment at his resentencing hearing.

In May 2006, HealthSouth itself agreed to a deal with the Department of Justice, under whose auspices it agreed to accept responsibility for crimes committed by its executives, to pay $3 million to the U.S. Postal Inspection Service's consumer fraud division, to enact more stringent internal controls, and to commit no other illegal acts for three years. In essence, the company

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was on probation until 2009. Otherwise, prosecutors stated, the firm would have been pushed into bankruptcy. In 2006, HealthSouth agreed to pay the U.S. Securities and Exchange Commission and other civil litigants more than $500 million in cash and shares, as well as more than $350 million to settle suits for Medicare fraud.

It is apparent that U.S. sentences are typically far longer than would have occurred in the United Kingdom, but it is important to appreciate that this is a relatively recent phenomenon since the turn of the twenty-first century, reflecting the perceived need for deterrence for prevalent offenses as well as strong feelings of retribution toward persons and companies that have caused serious harm.

Ex hypothesi, whether regulatory sanctions or formal monitoring really deters fraudsters depends on what sort of people they are. Let us look at some variations. Criminologists are broadly agreed that among the factors influencing involvement in crime are

- Personal values (though it is astonishing how readily ethical values can be reconciled with financial self-interest through rationalization);
- Attachment to the social networks of respectability (which degree of attachment regulators and judges may misinterpret or be misled about); and
- Expectations of being sanctioned, prosecuted, convicted, and punished both in formal terms (exclusion from the profession or from contractor lists) and in informal terms (being snubbed by friends, losing business contacts through imputed disreputability, etc.).

Even the most unpleasant tycoons accused of white-collar crime generally want others to think they are not crooks. Part of the "techniques of delinquency" of those who do offend are beliefs, prevalent among offenders generally, that their acts cause no real harm to anyone: hence, the importance of the imagery of seriousness in the media and among those whose opinions they may value, though the ingenious can always differentiate their contemplated or past acts as belonging to the lower range of harmful or even harmless actions.

But the symbolic and practical messages that are sent out to white-collar offenders have an impact on deterrence beyond retribution and shaming: hence, the controversy over the Queen Mother shaking hands at a Covent Garden fundraising party with Guinness convict Gerald Ronson while he was on parole, and the tendency of the media to treat fraud as a glamor issue rather than emphasizing harm to victims.

Stigma, or perceptions of the emotional and social trauma likely to be experienced by white-collar offenders as a result of conviction per se, may play an important role in judges' views about the appropriateness of sentence,

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though other factors may submerge its practical effect. It may be impossible to determine until after the fact whether shaming is going to be reintegrative or disintegrative. The issue of time also has to be taken into account: Stigma may be intense for a few weeks, but except for media targets for lifetime condemnation, if the offenders tough it out, the media soon lose interest. Moreover, if the stigmatized is useful to others in business or politics, then unless they are disqualified from business legally, they will reemerge because of realpolitik.

American economists Karpoff and Lott [1993:758ff.] observe that "the reputational cost of corporate fraud is large and constitutes most of the cost incurred by firms accused or convicted of fraud." Despite their very unsophisticated model of organixational functioning, the sound points remain that there are indeed reputational effects partly independent of formal sanctions, though publicity is partly a function of the sort of sentence imposed or expected to be imposed; and we should be wary about the imposition of more punishment than is needed to regulate the activity sensibly (unless one is a retributivist). However, the authors and the other economists they cite take no note of the symbolic values of (1) fairness vis-à-vis penalties in non-white-collar crime cases and (2) maintaining or generating general confidence in investment among the "little people," who, whatever their importance as a proportion of stock owners, may own only a small proportion of the total securities and whose discontent that "white-collar crooks are getting away with it" may not show up in share prices—mass-consumer boycotts are rare—but may show up in politicians' minds. The issue of fairness across types of crime never enters into the analysis.

It is difficult to disentangle from sanctions the purely reputational effects from those connected with expected financial and legal losses (as well as the diversion of executives' time). Thus, hypothetically, if it were not for internationalization of share markets, one might expect smaller price falls in high-penalty countries like the United States than in low-penalty ones, as the United Kingdom used to be.

But the implications may also depend on the type of company: After the head of research was suspended for "alleged misconduct," which the company inaccurately stated did not involve its drugs trials or fraud, the high-tech drug company British Bio's share prices lost £100 million (18% of their value) and dropped dramatically after he went public with claims of misrepresentation of the drugs' prospects. And this happened without any hint of criminal or even regulatory action: It was the market's estimate that the executives could not be trusted and the drugs would not make as heavy profits as they had expected previously.

However, treating such share price and reputational damage as relevant to retribution does widen the gap between the formal punishment imposed on those companies and their stockholding directors, on the one hand, and the street criminal who has little salient reputation to be injured and

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no tradability for the market to judge, on the other (though there may be analogies in terms of creditworthiness to drugs suppliers or trustworthiness to fences, for example). Furthermore, to the extent that the loss of share value takes account of expected direct fines, a reduction in that part of the punishment would reduce the value loss. The fairness argument makes it difficult to isolate the kinds of crimes that appear in the *Financial Times,* Frankfurter *Allgemeine Zeitung*, or *Wall Street Journal* from the kind that more commonly appear in the tabloids such as *Bild Zeitung* and in the television news.

The morally neutralizing effect of money, anyway, gives many persons who might still be stigmatized by traditional elites the capacity to elude such stigma while living in some luxury. The ease and anonymity of international travel make social exile to more tolerant social circles abroad less isolating than it would have been in former times, and such modern technology as air conditioning, power generators, and chilled transportation of fresh food makes the reproduction of physical comfort an easy matter wherever in the globe one lives. The longing for home may be more a problem for working-class professional criminals and their families on the run from Interpol warrants than for businesspeople, but such longings may be variable culturally, even if fish and chips, bratwurst, korma, and sushi, as well as more refined food, beer, and wines, are available in most of the world now.

Avoiding cultural imperialism, the conceptualization of what shaming might be expected to achieve nonetheless remains obscure. Is it primarily social pressure to impact on social prestige? (If so, this has to be affected or cared about, the latter implying some psychodynamic effect analogous to guilt but injected situationally from the outside rather than from the internalized superego.) Or is it some commercial incapacitation that operates through social mechanisms?

Whatever the case, part of the effect of shaming depends on how much the particular business wants to continue operating. Few preplanned fraudsters will care, unless the publicity somehow incapacitates them—after all, they have already successfully neutralized their crimes to their own ethical satisfaction, and though confrontation by the views of others may shake those neutralizations, they may regard this still as unrealistic or hypocritical. Those who turn to fraud when their businesses are about to go bust may not care anyway, for they are focused narrowly on "staying alive" or "saving a few pennies for my wife and children," though there are likely to be personality and cognitive dimensions here. The main people who care about shaming are (1) those whose social lives are embedded and sufficiently distanced to appreciate the impact, and (2) those who fear they may be excluded economically from markets. This, for example, is doubtless what propelled activity to redress "mis-selling" by the UK pensions industry, which feared corporate exclusion from lucrative new markets (even so, almost all priority cases accepted offers of redress). Hundreds of firms were fined for failing to comply with review guidance, but the naming and shaming of large firms have had an effect.

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The capacity to boost shame in contemporary societies is limited not just by the partial reactions of business and political elites (e.g., in the United Kingdom, to the "fat cat" allegations about gross overpayment to directors, especially to directors of privatized utilities) but also by the ability of the sociopathic to enjoy themselves in isolation from their censurers. In this sense, such issues as the move from ascribed to achieved status are important, as are the motivations of the fraudsters in the first place.

11.9 Fraud Prevention and Reduction

One proclaimed aim of policy, and part of the aim of sentencing, is financial crime reduction. In the prevention and reduction of fraud, there is at least some evidence of what works in highly defined fields. What works can be taken at several levels: situational opportunity reduction, rationalization stripping, and motivation reduction (though rationalization and motivation are connected). There are financial crimes where organizations themselves can be left to regulate in their own interests, and others where the state can, and perhaps should, play a role in ensuring protection for those incapable of looking after themselves, as, for example, in consumer fraud where no outsider can readily tell if impurities or if food content differs from that described on the label. As regards external regulation, at a *normative* level, one possibility is to aim for a system of regulation based on trust, with regular inspections and graduated punitive sanctions for those who show themselves to be unwilling to play the game. Illustrating their theme with data from their study of nursing home compliance, Braithwaite and Makkai [1994] observe that nursing home misconduct can be picked out by inspectors, using subtle contextual knowledge as well as quantitative predictors, but that when managers perceive that they are not trusted, their behavior deteriorates. They recommend enhancing civic responsibility by creating dialogue between corporate managers and their staff and community groups. (See also Fisse and Braithwaite [1993] and Braithwaite [2002] for a development of these themes.)

The choice of appropriate regulatory strategy also depends on where the sources of harm are located—within the corporation or outside it—and on whether violators see that they are doing wrong or even are breaking the law at all. For example, embezzlers who truly believe that they are "just borrowing" may require a different control strategy from that applied if they are "just stealing but reckon they won't be detected or prosecuted." Given the flexibility of capital and the financial services industry in a globalized economy, the "what works best" strategy may also depend on whether a tough policy will close the business: for if a business is to go bust anyway, graduated sanctions are irrelevant. Threats of moving a business away from

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overregulated economies may simply be shadow boxing; in this context, such businesses may just be seeking the minimum expenditure possible on consumer and investor protection. Nonetheless, even those who critique conventional economists' disregard of social values in utility maximization models would accept the relevance of such issues to corporate behavior [see Lehtola and Paksula, 2000:44–46].

It is important to clarify one's target population for crime prevention measures. *Anyone* who has money or is able to borrow it is capable of being victimized by fraud. Popular capitalism has spread securities ownership to the middle and even working classes, particularly following privatization in Western Europe.* If we add to these people individuals who have an interest in investments through life insurance plans, personal pension schemes, and mortgages, the majority of the population are susceptible to being defrauded directly or indirectly. Only *some* of these victims are in a position to take evasive action to some kinds of fraud, though if they checked the regulators' Web sites, where regulated firms are listed, they could avoid investing with unregulated firms (except, of course, in the case of those firms simply impersonating legitimate businesses). Savers and investors can pressure the people they entrust with their money to take greater care of it and be wary of compensation schemes that underwrite the conduct of the fraudulent and the reckless; but except for large institutional investors who have often proved reluctant to intervene, they cannot *dictate* the fraud prevention strategies of their management. In some cases, for example, mail order and telemarketing frauds, it may be rational to impose third-party liability on the media advertising the activity and thereby ensure that they check that the companies exist and are properly set up for the kind of business they advertise. Again, however, there is no evaluated evidence demonstrating the effectiveness of such advertising.

In the case of frauds *against* companies, prevention ideas must reach individuals at all levels of organizations. The credit manager or the head of security in a large company may be concerned about fraud, but the managing director may be more concerned about corporate image and sales; so if organizational policy is to be changed, it is the *senior* managerial personnel who have to be convinced about the desirability of or necessity for change. Fraud, in other words, should be part of the strategic plan of loss control within any organization. The criminological and "gray" policing literature contains very few examples of evaluated efforts to reduce any sophisticated forms of crime for serious economic gain. The modest literature indeed illustrates how difficult it is to get the authorities to act in a cross-cutting, interagency way against such sources of crime for gain. The analysis of

* Privatization in Central and Eastern Europe did not have this effect: from poverty and pressure, many sold their shares to business and crime entrepreneurs—almost indistinguishable categories—and the system replaced state oligarchy with private oligarchy.

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Knutsson and Kuhlhorn [1981] indicates the importance of looking at alternative explanations of changes in specific crime rates and critiques the conventional assumptions of displacement effects still shared by members of the banking industry [Levi, unpublished interviews, 1997–present]. There have been very few major research studies in any key economic crime areas—whether fraud against business, fraud against the public, or fraud against the financial interests of the European Union—that conform to the normal canons of randomized controlled trials.

11.10 Concluding Comments

As for antitrust offenses, Connor [2006] notes that median U.S. government fines average less than 10% of businesses affected, but they rise to about 35% in the case of multicontinent conspiracies. Civil settlements in jurisdictions where they are permitted are typically 6% to 12% of sales. Canadian and U.S. fines and settlements imposed higher penalties than other jurisdictions; fines on cartels that operated in Europe averaged a bit more than half of their estimated overcharges; those prosecuted only in North America paid civil and criminal sanctions of roughly the same as their damages; and global cartels prosecuted in both jurisdictions typically paid less than single damages. It seems plausible that a more aggressive approach would deter corporations more than the present system does, but the individuals making the price-fixing decisions are unlikely to be in their positions when their illegalities are discovered; and to the extent that frauds are committed to stop firms from sliding into liquidation, increased fines would reduce competition and lead to unemployment.

If offenders perceive that they will have both a low chance of conviction and a light sentence for complex, multijurisdiction frauds obtaining vast sums of money compared with other types of crime for gain, then unless this shift toward financial crimes and away from traditional crimes is an intentional policy objective (as a choice between evils), there is cause for reflection on the justice gap in fraud, though as Braithwaite [2002] is keen to stress, at a general level, that superficial fairness may not be the appropriate objective. The relativities between fraud and other sentences are salient, especially (in the deterrence mode) to those fraudsters choosing between different types of crime within their capacities, but also to justice between different sets of offenders and victims. The systematic information about offender and potential offender expectations of sanctions for fraud is not yet available to make any clear evidence-based decisions about deterrent penalties. Nor, following the corporate death of the accounting firm Arthur Andersen for shredding Enron files (though the conviction was reversed by the U.S. Supreme Court on appeal), do we have any clear idea of whether deferred prosecutions, currently fashionable in the United States, carry a

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credible threat that will produce either special or general deterrence. Major accounting firms and banks know that the market disruption that would follow their conviction makes corporate prosecution unlikely, even though U.S. corporate criminal liability rules make conviction easier than in other jurisdictions. The capacity to boost shame in contemporary societies is limited not just by the often tolerant reactions of business and political elites but also by the ability of the sociopathic to enjoy themselves in isolation from the censurers. Despite individual and corporate customer identification requirements in regulations against money laundering around the world, actual prevention is limited by the ability to anonymize oneself in many commercial settings, though this does not mean that attempts to reduce the harms from financial crimes have not been successful. Successes will remain tentative, especially without a sustained set of preventive efforts backed by administrative and criminal justice sanctions that must be conducted on a more than purely national basis.

In conclusion, levels of regulation of financial crime tend to lurch from one extreme to another as both prosecutions and tighter prevention follow scandals. Since the Wall Street crash of 1929 and the Great Depression of the 1930s, the United States has adopted tougher approaches than the United Kingdom to regulating capitalism, and when it has not, major problems have arisen, as in the savings and loans scandals of the 1980s, the dot.com bubble and other corporate scandals of the late 1990s and early 2000s, and the Wall Street collapses of 2008. Globalization has created special challenges for international cooperation to pursue both offenders and their proceeds, supported by political pressure for "functional equivalence" in legislation and for investigative resources to deal with transnational financial crimes. The extent to which both restorative and retributive justice, as well as preventive regulation, will be reconfigured in the light of the economic and moral panics of 2008 [Levi, 2009] remains to be seen.

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Studying Criminality and Criminal Offenders in the Early Twentieth-Century Philippines

12

FILOMIN C. GUTIERREZ

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12.1 Introduction

The notion of criminal law and the justice system as derived from values, customs and traditions of a culture often serves as the fundamental assumption of sociological analyses of criminality. The experience of societies that underwent colonial governance, where a legal system from a foreign culture is installed on an indigenous culture, however, confounds the notion of law as formal codification of culturally rooted values and sensibilities. The same can said of the academic and intellectual institutions of a society's cultural superstructures—lenses used in the analysis of social phenomena. Hence, problems such as crime would be unraveled using intellectual tools from the colonizing state that, though arguably more advanced and enlightened, lack cultural grounding. This chapter aims to demystify the official and scientific discourse produced in early twentieth-century Philippines, particularly the work of two Filipino "criminologists"—scholars who embarked on the study of criminality and criminal offenders in the Philippines.

Garland [2002:7] proposed that understanding the institutional, political, and cultural contexts of the development of criminology is important in understanding its central features and its conceptual and historical boundaries. It is thus important to ask whether scientific inquiries on crime and criminality in the early twentieth century in the Philippines parallel or echo those in the West. In the first place, who studied crime and criminal offenders in the Philippines, and what were their findings? This chapter tackles these questions, mindful of the dynamics of racial, political, and intellectual relations and arrangements within a colonial setting and the ramifications of criminological thinking that were imported from European and American schools of thought.

The chapter begins with a historical sketch of the condition of the Philippine criminal justice system, covering the time from the late nineteenth-century Spanish period up to the early American period in the early twentieth century, where transitional landmarks were established. Then, the chapter proceeds to examine several scientific projects that addressed criminality and criminal offenders. The major materials examined in this chapter are the two projects led by local Filipino scholars. The first analyzes crime records filed in Philippine courts in the early twentieth century (also known as the "early American period") by statesman and legal scholar Ignacio Villamor. The second comprises clinical studies combining anthropometric measurements, autopsies, and other observation methods by the physician and legal forensic specialist Sixto De Los Angeles at the Bilibid prison. Two more research projects, led by American scientists, are discussed, although they did not directly address the question of criminality. These are the anthropometric studies conducted on Bilibid prison inmates in 1903 by the anthropologist Daniel Folkmar, and the medical experiments conducted by

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physician and tropical medicine expert Richard Pearson Strong on death-row convicts at the Bilibid prison to develop vaccines against diseases. These American researches provide additional insight into how scientists opportunistically utilized the prisoner population in the Philippines.

12.2 The Early Twentieth-Century Philippines: A Period of Transition

The changes in the late nineteenth and early twentieth centuries had lasting impact on the state of criminal justice in the Philippines. The social unrest and political resistance of Filipinos against Spain in the last decades of the nineteenth century culminated in a revolution that released the Philippines from Spain's colonial rule, which had begun in 1521. However, the archipelago also found itself placed under the control of a new power, the United States, when in December 1898 the Treaty of Paris ended the Spanish-American War. The control of the Philippines was turned over to the United States, along with other Spanish territories: Puerto Rico, in the West Indies, and Guam. The promise of the United States to Filipinos was that it would temporarily take control and nourish the Philippines in the ideals of political democracy, modernism, and education in preparation for its independence and self-sufficiency. The change of sovereignty momentarily halted the legal and judicial operations established by Spain in the country. The transition was further marked by the uprisings against American rule by local resistance groups and an increase in the incidence of public order crimes that accompanied the troubled period.

The U.S. military government in the Philippines suspended the judicial functions of the courts, including the processing of criminal cases, but soon reestablished them in 1899, with the appointment of American and Filipino judges [see Gilmore, 1930; Fernando, 1950]. Beyond these shifts in judicial administration, the period opened a new direction in addressing criminality. Positivist-scientific inquiries scrutinized the causes of criminal behavior and further established academic interest in criminal offenders and prisoners as a distinct population full of potential for observation and experimentation. The brewing debates on crime and punishment within the circle of what is now collectively referred to as the Positivist School in Europe and the United States were welcomed by members of the Filipino intellectual elite.

12.2.1 The Criminal Justice System in the Early 1900s

The legal-judicial system in the Philippines in the early 1900s can be described as an amalgamation of Spanish and American legal doctrines

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and procedures.* Rather than grafting an entirely new criminal justice system, the United States built on the criminal laws already established by Spain and modified aspects of the system to accommodate the shift in sovereignty.

In form and substance, the criminal code in effect in the early 1900s remained close to what Spain formalized in the Philippines in 1889 [see Guevara, 1928; Fernando, 1950; Aquino and Griño, 1953]. By the second half of the nineteenth century, Spain has exported more *modern* elements into its judicial system in the Philippines. Such once-outlawed activities relating to religion as fortune-telling, witchcraft, heresy, blasphemy, and sacrilege were decriminalized [Guevara, 1928]. The government sought to further delineate the judicial function from executive functions of its officials, and courts increasingly required its judges to have formal legal training [Fernando, 1950; Bankoff, 1996]. Some amendments to the 1887 Penal Code were introduced to ensure the political sovereignty of the United States; these were laws against treason, insurrection and sedition, libel, and brigandage.† Laws on vagrancy, gambling, opium use, and trafficking,‡ as well as the flag law,§ were aimed at fortifying the newly established public order [Fernando 1950:146].

Bankoff [1996] argued that in the remaining decades of the nineteenth century, Spain buttressed its weakening control over the Philippines by intensifying its judicial management of crime. The years leading to the 1896 revolution saw an increase in the volumes of crimes against colonial authority—such offenses as rebellion, insurrection, sedition, and robbery

* The new criminal procedures brought in by the United States favored the accusatorial approach: proceedings are public and transparent, cases must be promptly processed, and most accused persons can post bail. The Spanish justice system tended to be an inquisitorial process: proceedings were not so public, case duration was indefinite, and only those accused of light offenses could post bail. In 1900, through General Order 58, criminal procedures that emphasized due process and the protection of civil liberties were instituted to address matters concerning arrest, search, bail, criminal action, rights of the accused, and presentation of evidence, among others. [See more in Villamor, 1930; Hayden, 1972.] At the final instance, cases in the Philippines could be appealed before the Supreme Court of the United States. In 1901, the United States established the Philippine Supreme Court, where American and Filipino justices presided. In the early years, the official language of the courts was Spanish, gradually shifting to the bilingual use of Spanish and English. The "amalgamated" criminal justice process was marked by the practice of referring to American and English court decisions to interpret cases in the Philippines. [See more in Gilmore, 1930; Fernando, 1950.] Legal education was fortified in the Philippines through the establishment of the University of the Philippines College of Law in 1911 through the substantial efforts of Justice George Malcolm, who also earlier introduced the first English-language law classes in the country.

† The banding together of men was deemed to be a threatening situation, thus the stronger campaign against brigandage. Death or at least 20 years' imprisonment was the penalty for "men who band together as brigands." The penalty of 10 to 20 years' imprisonment awaited those who aided brigands by informing them of the movement of the authorities, receiving stolen goods, or providing food, clothes, and arms to the outlaws.

‡ Opium use and trade were allowed and regulated by Spain.

§ The flag law banned the display of symbols associated with the revolution, the revolutionary Katipunan, or any local groups that appear to be banding for purposes of resistance.

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in band (also alternately labeled banditry or *bandolerismo*). The Philippines became a judicial state, where the "judicial apparatus of the state was substantially expanded and institutionalized to provide a framework for administering colonial rule" [ibid.:190]. Incidentally, criminal cases are among the most abundant and well-preserved of archival records kept at the Philippine National Archives, with more than 2,000 bundles of *Asuntos Criminales* (Criminal Cases) containing criminal records and documents in the nineteenth century.

It was in the context of a modern and modernizing criminal justice system—rational, bureaucratic, and professionalized—that the study of criminality and criminal offenders thrived. Under a climate of stronger academic and scientific pursuit, the American administration intensified the collection and compilation of vital statistics about the Philippines, and crime statistics were produced with increasing detail accompanied by interpretation of what patterns they signify.

12.2.2 The Intellectual Climate in the Early 1900s: Campaign for More Education

The American regime pushed to make formal education more widely available to Filipinos. Access to secondary and university education during the Spanish period was largely limited to small numbers of the local elite while the rest of the population had only formal access to rudimentary knowledge of reading and writing. Historians estimated the literacy rate to be 5–8% during the late nineteenth century [Agoncillo and Guerrero, 1970]. At that time, speaking, reading, and writing in Spanish, and later in English, were symbols of social status. Members of the elite were expected to have some education, to comprehend, speak, and read some Spanish or, at least, be able to scribble their names. By 1918 the literacy rate of people over age 10 was reported to have risen to 49% [Census Office, 1921:63].

In the late 1900s, a growing number of highly educated *ilustrados* (literally "enlightened") among *mestizos* (mixed-race) and native Filipinos from the landed and middle classes embraced the ideals of nationalism, science, anticlericalism, and political reform [Schumacher, 1973]. Institutions of higher learning, particularly in the sciences, were started by Spain through the religious orders, among them the University of Santo Tomas, Colegio de San José, and Ateneo De Manila [see Anderson, 2007]. When the Americans arrived, they were eager to present their purpose and programs as more modern, humane, and scientific, and overall better, than those of Spain.

The early years of the American period saw the growth of such "secular" academic institutions as the Philippine Medical School, Philippine Normal College, and University of the Philippines. Research institutions such as the Bureau of Government Laboratories and the Philippine Bureau of Science hosted researchers from a wide variety of scientific disciplines, including

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biology, chemistry, ethnology, geology, meteorology, and more [Anderson, 2007:298–381]. The new dynamic conditions presented opportunities for members of the intellectual elite who acquiesced to American governance and colonial management to productively rechannel their nationalist aims of nation building by joining its bureaucracy. It was also in this atmosphere of rising scientific awareness that scientific-positivist currents in the West swelled further in the Philippines.

Moreover, discourse on criminality and criminal offenders from the point of view of Filipino analysts precariously balanced three crucial factors: first, Filipino nationalist identity and pride; second, a rational-critical denunciation of criminal behavior; and third, a concern to show some deference to American "benevolent" guidance in anticipation of democratic, and eventually Filipino-led, self-governance.

When the Philippine census of 1903 recognized the relatively low crime rate of 8 per 10,000 people, compared to 13 per 10,000 in the United States [U.S. Bureau of the Census, 1905:417], the information became a source of national pride and an affirmation of the strength of Filipino character. Filipino authors repeatedly quoted the declaration of General J. P. Sanger, census director, that "considering the unsettled condition of affairs in the island during the six years prior to the census, the showing is not only favorable but remarkable, and indicates that the Filipinos as a race are not especially disposed toward crime" [ibid.:417].

12.3 The Scholarship of Ignacio Villamor

12.3.1 Crime Statistics as "Social Phenomena" and "Guide to Legislation"

The first "analysis" of crime records to be published was the work of Ignacio Villamor. Originally written in Spanish, *Criminality in the Philippines, 1903–1908* (*Criminalidad en las Islas Filipinas, 1903–1908*) offered interpretations of what the statistical lists, tables, and cross-tabulation of variables meant in terms of human behavior and society. This publication was followed by more of Villamor's works on criminality, mostly annual reports on crime. His career as a criminologist, so to speak, culminated in 1924 with the publication of his book *Crime and Moral Education*, which recapitulated and concluded his reports and essays on criminality over the years.

In *Criminalidad*, Villamor [1909] analyzed crime statistics from 1903 to 1908 based on court cases, and he looked into variables that may be related to the distribution, increase, and decrease of crime volume. These included the province where the crime took place and the background of offenders, including age, sex, marital status, education, and occupation. The report classified the

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crimes into categories that were largely based on such legal classifications as crimes against persons, property, and morals, among others, and compared the incidence across categories, as well as crime ratios through the years. It also reviewed statistical trends of court-based data on crime during the Spanish period from 1865 to 1885,* which reflected crime ratios ranging from 12.42 to 13.77 based on Villamor's computations [Villamor, 1909:43].

Villamor submitted the report with his imprimatur as attorney general of the Philippine Islands. He forwarded an interventionist agenda, arguing that "the statistics (herein contained) may throw more light upon the administration of penal law" [Villamor, 1909:9]. Lamenting the lack of organization the compilation of crime statistics, Villamor himself directed and supervised the gathering of statistics by the clerks of courts all over the Philippines "to fill in the necessary information on blank forms issued to them for the purpose" [ibid.:11].

The accompanying procedure in gathering and presenting data and the theoretical questions raised indicate that his work was also inclined to more academic purposes. The statistical project, Villamor wrote, aimed "to trace the cause or source of the increase or decrease of the number of criminals in a certain year or in a certain province" [Villamor, 1909:9].

Garland [2002:8] attributed the impetus of the development of criminology to two projects: the "governmental project," state-driven efforts to monitor crime patterns in justice administration and the practice of police and prisons, and the "Lombrosian project," consisting of inquiries geared toward determining the causes of crime and isolating what separates the criminal from the noncriminal [ibid.:43]. Villamor's studies on criminality reflect the convergence of the two projects. Throughout his government posts, whether attorney-general, director of census, member of the Philippine legislature, associate justice of the Supreme Court, or president of the University of the Philippines, Villamor attentively collected and analyzed crime statistics. The preservation of data on criminality in the early twentieth-century Philippines may, in fact, be attributed to the serendipity of Villamor's interest and dedication to the subject.

Villamor cited authoritative figures who argued for the application of positivist science in crime, especially the value of more systematic empirical data gathering. On statistics, for example, he quoted Lord Brougham's statement in Statistical Congress held in London,† declaring that, "criminal statistics are for the legislator what the chart and the compass are for the navigator"

* They are contained in a series of reports, *Causas Estadísticas Criminales por la Audiencia Real de las Islas Filipinas*, published in the late nineteenth century. Some of these documents can be found in the National Library of the Philippines and at the University of the Philippines Library, More substantial documents are kept at the Franciscan Libraries in Valladolid, Spain, and are presented in Bankoff [1996].

† Villamor likely lifted the quotation of Lord Brougham's statement, made at the 1860 London Statistical Congress, from Enrico Ferri's *Criminal Sociology*, where the quote appears.

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[Villamor, 1909:10]. He also cited Enrico Ferri's assertion* in *Criminal Sociology*, that "criminal statistics exhibit the factors of crimes as social phenomena not only for scientific inductions but also for practical and legislative purposes" [ibid.:10].

By today's scholarly conventions and standards, Villamor's analyses and conclusions seem questionable, messy, disorganized, and lacking parsimony. However, Villamor's work offered a systematically organized repository of data on court-based crime statistics. In evaluating Lombroso's "unwieldy volumes," Horn [2003:4-5] noted the "messiness of science-in-the-making," where scientists do fumble in their tentative search for answers. The same can be said of the inconsistencies and contradictions in Villamor's arguments in his works.

The true value of Villamor's work, however, lies in the attempt to furnish *grounded observations* that engaged abstract discourse on criminality traceable to empirical source. This positivist-empiricist commitment was extended to include observations of provincial court fiscals (court officers who largely determined whether a case could proceed at the early stage of the formal judicial process) who "had ample opportunities to observe the criminals in and out of court" [Villamor, 1909:47]. The fiscals were asked to answer questions about criminality in their respective provinces: what they thought were the most common crimes, the time of the year when crime was highest, the "primary factors of such crimes," whether they thought the "customs, prejudices, and mode of living" exerted influence on crime commission, the economic conditions of the province, alcoholic consumption in the province and whether it impacted on crime, and any statements they could add that they "deem(ed) conducive to a thorough study of criminality" [ibid.:47].

12.3.2 The State of Criminality in the Philippines

Based on Villamor's report, statistics from 1903 to 1908 showed that such property crimes as theft and robbery were among the leading crimes in the country, accounting for 24% to 28% of the total. Although property crimes remained the most frequent category, these figures are much lower than those during the Spanish period, from the years 1865 to 1885, when property crimes ranged from 39% to 51% of the total. Crimes against persons, including murder, homicide, and personal injuries, accounted for 14% to 19% in the early 1900s. Records for the fiscal year 1903–1904 indicated that crimes relating to political turbulences (crimes against the state and public order) were quite high, 10% and 28%, respectively, but the proportions dwindled as conditions settled; for the fiscal year 1908–1909 they were 1% percent and

* Although he did not provide bibliographic references at the end of his report, Villamor must be referring to the 1905 publication of *Criminal Sociology*.

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5%, respectively. Crimes against public morals were also low, at 6% to 9% of the total.

12.3.3 Reports from Court Fiscals: Insights from "Direct Observers"

Feedback from the field presented a collage of ethnographic statements from local fiscals, many of whom wrote in their provincial languages or dialects.* Data consisting of impressions, opinions based on personal and professional experiences in dealing with criminals, was as acceptable to Villamor as to his Western intellectual contemporaries. Rafter [1992:27] remarks that criminal anthropologists in the early 1900s "emphasized the importance of direct observation and data collection, but as data they accepted folk wisdom, anecdotes derived from creative literature."

Villamor recognized that in general, property crimes had declined for most provinces [Villamor, 1909:55]. For those provinces that had a high incidence, the crimes were attributed to various factors, ranging from such structural constraints in the agricultural market as decreased crop yield, low market prices, and lack of employment to such faulty cultural practices and values as gambling, alcohol, and indolent work ethics.

The fiscal of Pangasinan Province, for example, attributed the crimes to "general poverty and misery" and "the habits of indolence of the inhabitants … (where) people shirk from work after the harvest season is over" [Villamor, 1909:55]. The fiscal of Pampanga pointed out the "the lack of labor in which to be engaged, the scarcity and high prices of necessaries." Similarly, the fiscal of Negros Occidental blamed unemployment and gambling among the people as "a vice … common to the lower classes" [ibid.:57]. The fiscal of Manila blamed the preponderance of "dens of vice and other places of perversion, which constitute the paraphernalia of city life" [ibid.:55–56].

Moreover, impunity was raised as a factor by a few fiscals, and the defects of the justice system were partly to blame for this impunity. The fiscal of Tayabas noted that thefts go unpunished because complainants are "backward in denouncing to the authorities, or to their agents … in order that they may not afterwards have to appear before the court to testify … [and there is also] fear of the reprisals of the robbers" [Villamor, 1909:57]. The fiscal pointed out the impracticalities involved in the judicial process such as the distance of courts the financial constraints on witnesses to cover travel expenses.

Documented are the complaints about the unrealistic demands of the justice system, the lack of funds to pay for the transportation of witnesses when summoned to court, the people's preference for more practicable and

* More than 80 languages are known to be spoken among the people from various provinces in the Philippines.

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informal means of out-of-court settlements, and lack of personnel, supplies, and other facilities that would support a fully functioning court. These reports were then punctuated by requests for government support and funding; reports were also viewed by the fiscals as more than a bureaucratic compliance to recordkeeping; they were opportunities to make requests for the needs of their office.

12.3.4 Crimes against Persons: Alcohol, Parties, and Weapons

Most crimes against persons were blamed the on alcoholic beverages, the habit of carrying weapons, and *fiestas* (celebrations) that generate petty altercations ending in violence. The fiscal of Leyte was quoted thus:

> A native of Leyte is peaceful in character, but, if his ire is ever provoked and he decides to avenge an offense, he will seek in the *tuba* a stimulant to move his arm to strike … The habit of carrying weapons, such as knives, daggers, and *bolos* especially, all of which are designated with the generic name of *alam* (protection) when carried along for personal security and defense. [Villamor, 1909:68]

On fiestas, the fiscal of Isabela reported that in his province,

> There is no private or public meeting, election meetings … occasion(s) of christenings, marriages, and funeral ceremonies, when members of the party, intoxicated by the beverages, do not get joyful and, sometimes, troublesome, often ending in free-for-all fights. [Villamor, 1909:72]

Cultural practices of Filipinos were presented as residues of an antiquated past, as dysfunctions obstructing development efforts toward a modern society. Phrases such as "superstitions and customs" or "ignorance and lack of education" figured prominently in the explanation of robbery by bands, also referred to as banditry or *bandolerismo*, among other crimes offered by Villamor and his fiscals. Although classified as a property crime, *bandolerismo* was regarded a threat to political stability.

The fiscal of Occidental Negros attributed the banding together of men to unemployment and poverty. The fiscal of Cavite Province, known to be a central place for revolutionary struggle against the rules of Spain and the United States, explained conditions that gave rise to banditry:

> During those years the sons of this province were in continuous war, first against the Spanish sovereignty, and afterwards against the American Government. Habits acquired in warfare, hatred and passions incident to the war, and a false idea of "independence" and the manner of obtaining the same, are the chief causes of this crime. [Villamor, 1909:48]

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The comments of the fiscal of Samar on the *bandoleros* (bandits), demonstrates the popular notion of *bandolerismo* as a politically destabilizing act.

> The self-styled apostles … exploiting the ignorance of the masses, have persuaded … that the present general economic depression of the country is due entirely to the heavy taxation, and other such trash and absurdities, thereby exciting animosity and hatred in the hearts of the people…. [T]he Government is reproached and stigmatized as unmerciful … which leads the people to commit the crime of *bandolerismo*. [Villamor, 1909:49]

Filipino historians view such labels as brigands, bandits, or *bandoleros* given to armed Filipinos as an American response to strategically undermine the political significance of armed resistance against the United States and to reduce dissenters to the status of disruptive criminals whose actions are devoid of political objectives [see Medina, 1984; Gealogo, 1998]. By framing armed resistance as banditry, the government diminished the importance of the resistance and its claim to be recognized as political action while the Americans found a way to justify their military operations to suppress resistance [Gealogo, 1998].

It is perhaps important to reveal at this point that Villamor is also known to be the court judge who convicted and sentenced to death the revolutionary leader Macario Sakay and his associates, convicting them of robbery and banditry, among other crimes [see, e.g., Abad, 1955]. Courts prosecuting cases relating to the revolutionary activities of Macario Sakay were then careful not to call him and his men insurgents but to identify them as robbers or *ladrones* (see, e.g., Supreme Court of the Philippines, *United States vs. Esteban Evangelista*, 1905). Formerly a member of the revolutionary cabinet of Emilio Aguinaldo, the first president of the Philippine Republic under the Malolos constitution, Villamor was among the Filipino intellectual elite who shifted loyalty to the American administration.

Anxieties over criminality were conflated by a sense of mayhem that threatened political stability and public order. When political and related public order crimes dwindled, fiscals were quick to note the decline of criminality as well. The fiscal of Cagayan and Isabela explained, "These crimes were committed in abnormal times, or in the year 1903, being the remnant of the general uprising. It was an exceptional period, and since then, or until the year 1908, no other case has been recorded" [Villamor, 1909:50].

Villamor proudly declared that the relatively low crime in the Philippines "certainly speak(s) well for the Philippine Islands." Such pronouncements affirm both the nationalist sentiments of Filipino intellectual elites and government officials as well as success claims by the American administration on the management of the colony.

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Interest in emphasizing that Filipinos are "not inclined to crime," a remark that came from the U.S. Bureau of the Census director himself, J. P. Sanger, was mirrored in the accounts of the local fiscals in Villamor's report. While extolling the peaceful nature of the people, the fiscals offered explanations ranging from poverty to pestilence, the effect of alcohol, and the habit of carrying weapons, in the process offering Filipino readers an opportunity for self-reflection on their own culture and giving foreign readers a collection of "exotic" cultural snapshots of the Philippine culture.

The consultative approach of Villamor's inquiry articulated the contribution of social, political, and economic dysfunctions on top of natural disasters as external forces outside of individual choice as impetus for criminality. Villamor's informants were also quick to balance it with some kind of "self-awareness" about the "defects" of Filipino habits and practices. The prosecuting attorney of Manila wrote that crimes against property "are due to lack of labor, to poverty on account of the past uprisings, the rinderpest, and bad crops; in other cases they are due to bad habits acquired from idleness, laziness, and lack of knowledge of responsibility" [Villamor, 1909:56].

12.3.5 Crimes against Morals: Poor Education, Gender, and Literature

In assessing crimes against morals or "crimes against chastity" such as adultery, rape, and seduction, among others, Villamor's reports pointed to multiple influences ranging from lack of education to stereotypical masculine and feminine sexual roles, household living arrangements, and literature. Such crimes were generally observed to be low beforehand but in 1908 "made a sudden leap" [Villamor, 1909:73], particularly cases of rape and adultery.*

Fiscals from various provinces denounced the lack of education and morals of the people. They referred to "the sexual passions of man unchecked by education, morality, and religion … and carelessness of parents [over their children]" (Rizal Province), "the promiscuity of sexes among uneducated people" (Occidental Negros), and "human passions [combined with] ignorance" (Cebu) as problems behind moral crimes [Villamor, 1909:76–77].

* Whereas volumes of adultery and concubinage cases were minimal during the Spanish period, they increased during the American period. The rise in cases may have less to do with actual increase of incidence and more with the diminishing role of the Catholic Church in arbitrating marital problems. During the Spanish period, adultery cases were likely brought before the bishop or the ecclesiastical judge rather than the secular justice system. Fernando [1950] further noted that civil marriages were only formally recognized during the American period. Moreover, with the legal amendment making adultery or concubinage grounds for marital dissolution or separation in a country where there is no divorce, Filipinos seeking marital separation may have used either charge and thus increased further the statistical recording of adultery.

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Stereotyped gender roles on courtship and sexual relationships were also raised. Fiscals suggested that rape, seduction, and adultery stem from the belief of men to consider it a "great honor to their sex to have the greatest number of victims among the opposite sex in love affairs" (Bulacan), and the "daring of men and the timidity of women, especially country women" (Nueva Ecija, Tarlac, and Cavite) [Villamor, 1909:78].

Sexually provocative popular literature had been blamed for moral crimes. The fiscal of Bulacan proposed that "popular literature known as *corridos* and *awits* [songs] is erotic, and chivalrous and knavish beyond measure. … The poetical legend of Magdalen, the sinner, excites the imagination of the young Tagalog girl more than the equally poetical but more edifying legend of Magdalen, the penitent" [Villamor, 1909:76].

Villamor ventured into other causes of moral crimes, factors outside the control of individuals: physical environment, climate, and diet. He pointed out, for example, that in Occidental Negros, "during the sugar-cane grinding season a great number of laborers are gathered on the estates with their families, who live in crowded and narrow dwellings … families live and sleep closely and promiscuously, there being no separation of men from women, of the married from the unmarried, of old men from young men."

12.3.6 On Women's Criminality

The chivalric notion of weak-willed women as victims and needing protection was one of the recurrent themes of Villamor. When it came to women offenders, for example, he presented their criminal participation as low and "milder in form." In *Crime and Moral Education*, Villamor wrote of the Filipino woman, "She is not engaged, as man, in the bitter struggle for existence … [but] lives under the protection and care of her parents or husband" [1924:36].

The chivalric notion that women are by nature less predisposed to criminality, at least truly normal women, echoed the gender views of Lombroso. But the notion of being protected and "under the care of parents or husbands" also foreshadowed notions of nondetection of women's crimes because of women's limited social roles, forwarded later by Pollak [1950]. In his works, however, Villamor took up only the positive side of women's inclination and refrained from explaining "what could go wrong" in the relatively small number of women who did commit crime.

Recorded crime statistics from 1863 to 1918 indicate that men's criminal participation increased by 50%, while that of women increased by 188%. This rate of increase was ignored, with only the huge gap between the crime rates of men and women being given attention. Oblivious to the closing of the gender gap, Villamor concluded that women possessed distinct traits and quoted authorities: "As Carpena says, she must necessarily develop affectionate

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tendencies, softer feelings, which are transmitted by inheritance, reinforced by education, and manifested from early childhood" [Villamor, 1924:70–71].*

Villamor's *Criminalidad* report was also replete with chivalric and, in today's sensibilities, sexist commentaries about gender and crime. The narrative report of the fiscal of Manila shed light on gender relationships: "Many of these girls enter the threshold of dance halls when they are still innocent and pure … by the evil company of the women of the underworld, or through constant association with the guests of such places, they fall into the hands of men who deceive them with alluring promises" [Villamor, 1909:74].

The fiscal of Tarlac and Nueva Ecija attributed crimes against chastity such as rape and seduction to the "inborn timidity of country women, which makes the men more daring" [Villamor, 1909:78].

Moreover, to the fiscal of La Laguna's report on moral crimes as a "want of morality," Villamor added that fish was among the staple foods of the people of the province [1909:75]. He also proceeded to quote Speaker Sergio Osmena, that moral crimes "in the Visayan region [of the Philippines] … were frequent in the towns along the coast, and that this was probably due to the abundant quantity of mollusks and fish there, which constitute the staple food of the inhabitants of said towns" [ibid.:76].

12.3.7 Diet and Climate as Causes of Criminal Behavior

Villamor ventured to introduce such early twentieth-century developments in criminology as notions of the effects of the physical (climate and diet) and social environments [Villamor, 1909:99]. As a scholar whose main training was in the law, Villamor turned to other experts—physicians and scientists, mostly professors at the Philippine Medical School. He requested "the opinion of professional men" on the effects of a vegetable diet on a person's morals, nourishment that makes a person more inclined to commit crimes, and whether living in "seacoast towns or in the inland country [has] any bearing on the disposition and habits of a person" [ibid.:95].

To these questions the experts gave varied, often conflicting, answers. On diet, Dr. Dudley, associate professor of surgery at the Philippine Medical School, and Dr. Manuel Gomez agreed that a vegetable diet has a positive impact on behavior: it makes people more amiable, less prone to fits of anger or to commit crime, and more disposed to exhibit favorable conduct and temperate habits. Assistant professor of physiology Dr. Hans Aaron, of the same school, felt that food has no influence on moral behavior, but that alcohol has, and perhaps strong tea, coffee, and strong tobacco [Villamor, 1909:96]. He further warned against an imbalanced diet consisting of only vegetables.

* Although Villamor did not provide a complete citation, he was most likely referring to the Spanish criminal anthropologist Fructuoso Carpena.

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This view was joined by Dr. Tranquilino Gonzalez, a physician from Iloilo, to the effect that inadequate diet so weakens the physical and mental state as to affect behavior. Gonzales further stated, that "this leads us to the pathologic theory which deems criminality as a morbid condition or pathologic phenomenon. Such theory is upheld by such authors as Lombroso, Letourueau, and E. Ferry [*sic*], who affirm the existence of a certain relation between criminality and insanity and assign the propensity to crime to moral aberration" [ibid.:96].

The experts also extolled the advantages of communities living in coastal regions, which brings about positive behavior, but they also suggested rather confusedly that "food, local conditions, and other similar causes exercise an influence on the commission of certain crimes."

Somewhat out of his element, Villamor devoted a number of paragraphs to explore the link between climatologic factors and criminal behavior, referring to concepts brought up by Lacassagne, Ferri, Mayo-Smith, Corre, and others by pointing out some patterning of criminal incidence being high in the summer months, but he falls short in fully demonstrating a decisive pattern. Giving attention to climate and temperature, Villamor emphasized that the fiscal of Cebu observed that April, May, August, and September were the months when the "the heat is mostly felt" and argued that these are probably the same months in which crimes against chastity are committed [1909:75].

12.3.8 Criminality as a Multicausal Phenomenon

Villamor offered no parsimonious explanation as to the source of the crime patterns he noted. Instead, criminality was presented as a multicausal phenomenon plaguing the country. He infused his personal insights with opinions of "experts" as to the link of diet, climate, alcohol, and other substances, and of economic, political, and social environment to criminal behavior.

Villamor subscribed to an eclectic approach both in his attempt to get at the etiology of criminality and how the state and society must deal with it. Although Villamor paid homage to European and American criminological thoughts, he juxtaposed them with "local conditions," thus conducting the classic theory-verification practice of assessing concepts with empirical data.

Villamor did not adhere to a particular school of thought in criminology, such as the Italian Positivist School or the French School and other critics of the Lombroso School. For Villamor, the theoretical conflicts in their debates did not need resolution, for each of their concepts could be applied to explain different types of crimes taking place in different physical and social settings. He saw criminality as a diverse terrain of human weaknesses attributable to a confluence of factors. He argued that "customs, superstitions, environment, as well as agricultural production, constant and hereditary action of climate,

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economic and political crises, are all factors to be considered in the investigation and study of the causes of the growth or diminution of criminality" [Villamor, 1909:10].

12.3.9 Moral Education as a Solution to Crime

Villamor's valedictory work, *Crime and Moral Education* [1924], argued for the dissemination of moral education, which he considered preventive of crime. The argument of education as the process of learning appropriate values to guide moral behavior somehow returns Villamor to the legal foundations of rational choice, this time well-guided, morally educated choice. His first training, after all, was in the law. This line of argument seemed consonant not only with his post as president of the University of the Philippines; he emphasized the importance of education as a remedy to "social backwardness," as a modern force leading the Philippines to national development and, eventually, to self-governance.

12.4 Scientific Subject and Specimen: The Filipino Criminal at the Bilibid Prison

The Bilibid prison in the Philippines hosted scientific studies conducted by Filipino and foreign researchers. Established in 1865 by the Spanish government, Bilibid was then known as the Cárcel y Presidio Correccional de Filipinas and also as the Cárcel Pública de Bilibid. The *presidio* (prison quarters) housed convicted offenders from various parts of the Philippines, while the *cárcel* (jail) detained offenders awaiting trial or sentencing. The Bilibid compound also housed the central administration office coordinating other prisons in various parts of the country. Figure 12.1 is a photo of the Bilibid prison in Manila.

Bilibid had a radial architectural layout inspired by the panoptic design proposed by Jeremy Bentham, the eighteenth-century English philosopher of utilitarianism who is also known for his ideas of correction as providing "safe custody, confinement, solitude, forced labour, and instruction" [Bentham, 1995]. The Bilibid featured a central surveillance tower—the *edificio panóptico* (panoptic building)—from where 12 prison buildings radiated like the spokes of a wheel [Philippine National Archives, 1880: *Obras Públicas* J-5]. The panoptic building served as *capilla y vigilancia central* (chapel and central surveillance); the setup seemed to be the physical representation of the crucial role that the Catholic Church played in Spain's rule over the Philippines.

The U.S. government retained the existing prison system but introduced "modern developments" in prison management, which repudiated

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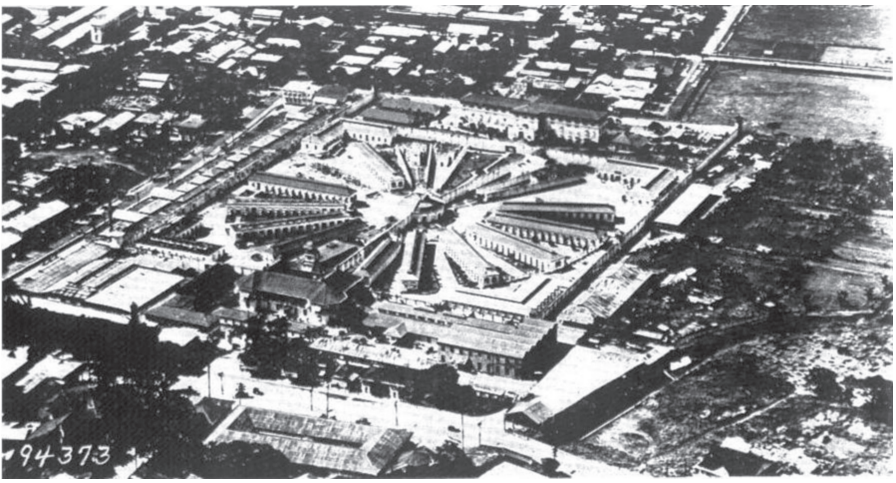


Figure 12.1 The Bilibid prison in Manila. (From Bureau of Prisons, Department of Justice. *Convict labor in the Philippine Islands*. Manila: Bureau of Printing, 1925.)

the "archaic and punitive prison practices" of the Spanish regime. Bureau of Prison officials claimed that the new penal management turned, instead, to isolation, self-discipline, productive labor, and reeducation, where the prisoner "must be reformed, morally rehabilitated and converted from a social parasite that he is, and from a human liability into a social asset" [Bureau of Prisons, 1925:7].

Covering an area of 17 acres in Santa Cruz, Manila, Bilibid was "the largest prison under the control of the American Government and (was) said to be the largest prison in the world" [Bureau of Prisons, 1927:20]. At the end of the 1902, there were 1,787 prisoners confined at the Bilibid prison [U.S. Bureau of the Census, 1905:424]; by 1917, there were 2,495 confined [De Los Angeles, 1919:58].

Bilibid provided a venue where a large assembly of individuals could be incarcerated and controlled. In this total institutional setting, compliant Filipino bodies assembled, presenting an opportunity for scientific study and experimentation.

12.4.1 Anthropometrics: Measuring Philippine Types

A keen interest in demystifying the human body in general and that of the criminal in particular developed in nineteenth-century Europe. Horn [2003:1] notes the emergence in the period of "a family of discourses and techniques intended to qualify and quantify the bodies of dangerous persons: criminal anthropology, legal psychiatry and forensic medicine." With the rise of criminal anthropology following the 1876 publication of *The Criminal Man*

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by Cesare Lombroso, the notion of criminal behavior stemming from degenerative human traits was seriously taken up by a good number of people. The hypothesis of the *born criminal* challenged the rationalist core of modern criminal codes and modern penology, which placed value on human choice. The development of anthropometry, the measurement of the individual to ascertain human variations, became part of the tools of criminal anthropology.

The anthropometric measurements of inmates at the Bilibid prison were taken up by the American anthropologist Daniel Folkmar in 1903. The project was not expressly intended to demystify the pathological dangers that lie in the bodies of convicted criminals; rather, it was designed to scrutinize and classify the racial or ethnic "types" that can be found in the Philippines.

Folkmar's collection of anthropometric data from Bilibid inmates was among the projects of the United States for the World Exposition, pursued to showcase the American empire at St. Louis, Missouri, in 1904. Distilling each "ethnic type" from a wide range of ethnicities in an archipelago of over 7,000 islands was challenging. Bilibid prison inmates presented to Folkmar an "unexcelled collection" of diverse ethnic groups from various parts of the archipelago. American World Exposition officials felt that "the conditions found in the Bilibid should be utilized in the interests of the Exposition and the scientific work of the Bureau [of Non-Christian Tribes]" [Kramer, 2006:29].

Folkmar presented 1,024 photographs and 128 body casts of Bilibid prison inmates at the World Exposition. An accompanying book, *Album of Philippine Types Found in Bilibid Prison in 1903, Christians and Moros, Including a Few Non-Christians*, published photographs of some 80 prisoners. Figure 12.2 is an example of an inmate photograph. Data were made available on the men's height, weight, cephalic index, length of head, breadth of nose, span of arms, shoulders, and the like, on the opposite page of each photograph. Folkmar classified the men as "typical" for a Tagalog, Visaya, Manobo, or Negrito, among many other provincial and ethnic groups found in the Philippines.

The robust population of Bilibid prison afforded Folkmar a wide variety from which to select his sample. In the *Album*'s introduction, he explained how the men came to represent each "Philippine type":

> Men from a given province … were lined up by height … and were taken measurements … a selection was made by intervals for photographs and for more minute study; the resulting list was thus fairly representative of the chief physical types. Thirdly, from a large number of photographs … two of the best [were] selected for the Album. [Folkmar, 1904]

That particular process conjures a harsh imagery of Bilibid inmates as literally a captive and docile population laid out for scientific scrutiny.

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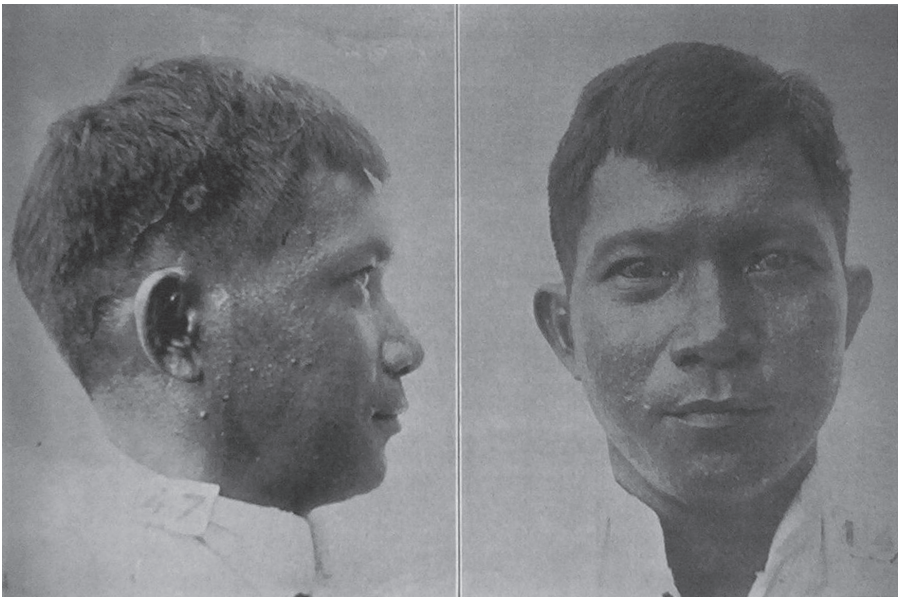


Figure 12.2 One of the Bilibid inmates whose photographs were presented at the World Exposition, St. Louis, Missouri, 1904. Anthrometric data such as height, weight, cephalic index, length of head, breadth of nose, span of arms, shoulders, and the like were reflected on the opposite page of each photograph. Folkmar classified the men as typically Tagalog, Visaya, Manobo, or Negrito, among many other provincial and ethnic groups found in the Philippines. (From Folkmar, D. *Album of Philippine types found in Bilibid prison in 1903, Christians and Moros, including a few non-Christians*. Prepared and published under the auspices of the Philippine Exposition Board. Manila: Bureau of Printing, 1904.)

Under contemporary sensibilities and conventions, the issue of ethical practice could be taken up against such projects, where members of a vulnerable population, such as prison inmates, are in a weak position to refuse participation. Scholars have also brought up the deeper issue of racial stereotyping, misrepresentation, and denigration of Filipinos as a race and people in the interest of the empire-building project of the United States [Rydell, 1984:154–83; Kramer, 2006:229–84].

12.4.2 Resisting Typing: Inmate Voices

Some inmates challenged Folkmar's classification of their types. Prison inmate Vicente Gutierrez was classified by Folkmar as an excellent representative of the Negrito type found in the vicinity of Mariveles. Folkmar exasperatedly reported that Vicente claimed to be something other than Negrito. "Vicente insist[ed] that his mother is a Tagalog" [Folkmar, 1904]. He also noted the rejection of his typing by another inmate. Folkmar [1904] wrote that "the three of Bataan stock who appear acceptable in type, claim[ed] to be

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mestizos; while a man from Negros, who insists most strenuously upon being a Negrito, is not believed by the writer to have any Negrito blood in him … there is testimony as well as ethnical evidence, to his being native of India."

Whether or not such protests from the inmates that questioned the certainty of scientific standards found a collective expression in recognized venues before a significant audience is a question worth pursuing.

12.4.3 Bodies for Science: Human Experimentation at the Bilibid Prison

The Bureau of Science Biological Laboratory, established by the United States in the early 1900s, virtually annexed the Bilibid prison infirmary as a satellite laboratory. It tapped the bodies of prison inmates as human specimens for medical experiments by American scientists in the search for cures of various diseases, including cholera, bubonic plague, and beriberi, among others. Disease outbreaks within the Bilibid prison compound presented an opportunity for Dr. Ernest Tyzzer, an American pathologist, to qualify that varicella (chicken pox) is a distinct disease from smallpox, by drawing from subcutaneous biopsies from 11 infected inmates; the biopsy slides were sent to the Registry of the Armed Forces Institute of Pathology and the Harvard Countway Library [Weller, 2000].

One such medical experiment, conducted by scientist and tropical medical expert Dr. Richard Pearson Strong, resulted in tragedy. Death-row convicts, 13 out of 24 experiment "volunteers" for the study of vaccine against cholera, died after accidentally receiving inoculations contaminated with the bubonic plague serum, an error allegedly committed by a medical assistant in November 1906 [Chernin, 1989].

Strong, who received his medical training at Johns Hopkins University, later taught medicine at Harvard University. He was deployed to the Philippines in 1899, under the U.S. Army Medical Corps, with the rank of lieutenant. Included in his task was the investigation of tropical diseases plaguing Filipinos and putting at risk American soldiers in the country. Strong soon became president of the Board for Investigation of Tropical Diseases in the Philippines (1899–1901) and chief of the Philippine Biological Laboratory [Gillett, 1995:287–88], one of the editors of the *Philippine Journal of Science*, and a faculty member of the University of the Philippines College of Medicine.

The American governor-general of the Philippines appointed a committee to investigate the Bilibid tragedy. Strong reportedly speculated that a visiting physician from Chicago (this physician remains unnamed in the documents) might have mixed up the cholera serum with that of the plague, thus causing the death of more than half of his research subjects. The committee found Strong negligent for not ensuring that incubators were locked and for

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leaving a visiting physician alone in the laboratory, but he was exonerated from criminal negligence [Chernin, 1989:1000].

Strong published his research findings through articles in the *Philippine Journal of Science* over many years. In an article on plague vaccination, he cited the relative success of previous cholera vaccination on Bilibid prison inmates and even emphasized the need to guarantee the safety of human subjects [see Strong, 1907a:324–32]. A brief footnote mentioned that "an accident in relation to some inoculations … at the Bilibid prison … was not due to these plague vaccinations" [ibid.:329]. The cryptic line can be surmised to refer to the 13 fatalities from the cholera experiment in November 1906.

In the article about his cholera vaccinations, Strong reported on cases of cholera in the Philippines starting with the Bilibid prison outbreak in 1905, stating that 1,838 inmates were inoculated, yet only 4 of 24 cases of cholera infection had been on inoculated individuals [1907b:422]. His article, however, decisively maintained focus on the findings of his cholera experiments without mentioning the tragic accident.

Strong was reportedly severely distraught over the tragedy while state officials protected the details, keeping them secret, and prevented information from coming out in local and foreign (particularly Spanish) papers [Chernin, 1989:999]. Despondent over the Bilibid disaster, Strong left for Manchuria to do further research on the plague, and then headed to Siberia to investigate typhus, before returning to Bilibid in 1912, this time to study beriberi. With state authorization, he experimented by putting death-row inmates on certain types of rice diet. Some inmates reportedly died as a result of the experiment; survivors were compensated with cigars [Hornblum, 1997:1437]. Despite the Bilibad disaster's stain on his career, Strong went on to an illustrious career as professor of tropical medicine at Harvard University. Eventually, the prestigious Richard Pearson Strong Professorship in Tropical Medicine was established at Harvard in his honor.

12.5 The Contributions of Sixto De Los Angeles

The Filipino scholar who ushered in a decidedly more "scientific" direction in the field of possible biological causes of criminality was Sixto De Los Angeles, a medical doctor and professor at the University of the Philippines College of Medicine. In 1919, he published *Estudios Sobre Antropología Criminal en las Islas Filipinas* (Studies on Criminal Anthropology in the Philippines), a volume featuring the empirical findings from his clinical studies of inmates at Bilibid, conducted in 1917. His book *Legal Medicine / Forensic Medicine*, which established his work over the decades as the leading Filipino forensic expert in the country, became a major reference in legal medicine for generations of students in medicine and law.

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De Los Angeles needed to lay the groundwork of positivist science's ascendency over other sources of knowledge. In his introduction, he set the tone for his adoption of positivist criminology, stating that

> the scientific study of crime and criminal offenders as a product of logic and unfolding of positivist science, can be said to trace its roots from the developments of intellectual and moral freedom brought about by the great political revolutions in America and France, and from Charles Darwin's publication of "The Origin of Species"; the modern ideas on biology and evolution in the study of morphology and physiology. [De Los Angeles, 1919:13]

Although Villamor had intimated the usefulness of examining biological factors linked to criminal behavior, it was De Los Angeles who formally brought them into academic and state discourse. He brought to light the importance of emerging fields that quantify the body of criminals: criminal anthropology, legal psychiatry, and forensic medicine—the idea that the body can testify to legal and scientific truths, an idea developed in nineteenth-century Europe, particularly Italy [Horn, 2003:1].

De Los Angeles [1919] emphasized the importance of criminal anthropology in understanding crime and the criminal offender, and he gave credit to the Italian scholar Cesare Lombroso as the discipline's founder. But De Los Angeles, abreast with intellectual developments in the West, leaned toward Lombroso's notions of the "criminal man," which he updated in *Crime: Its Causes and Remedies*, published in 1910.*

Lombroso's criminal anthropology has been rejected in our own times as pseudoscience; its arguments and conclusions sound ridiculous. But scholars have cautioned that Lombroso must be understood in the intellectual currents of his milieu; he had a curious intellect, was an engaged and energetic thinker, and was widely respected in Italy in his time [Gibson and Rafter, 2006:2–3].

The broader considerations of the etiology of crime in the later works of Lombroso and his students opened paths to criminal typologies other than the "born criminal," whose behavioral pathologies are rendered readable in the human body. De Los Angeles, too, provided a fairly liberal definition of criminal anthropology as "the systematic study of criminal individuals and their links to the physical and socioeconomic environment in order to determine the causes of crime and, from an empirical basis, propose practical means to correct and prevent them" [1919:24].

De Los Angeles emphasized the need to generate an interpretation of local realities to best understand criminality, arguing that "if every society,

* His footnotes indicated that De Los Angeles mostly read the Spanish edition (*edición castellana*) of Lombroso's work.

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ethnic group, country, in every stage of its historical evolution, assumes its own characteristics and peculiar tendency, [that] crime is a biological-social product … it is necessary to know the real conditions that create the criminal in our own country … [and] data need to come from living individuals and society." [De Los Angeles, 1919:17; trans. from Spanish].

Like Villamor, De Los Angeles had a strong belief in positivist science, yet he cautioned readers on the irreverence of a new science (*nueva ciencia*). He warned that the new science

> introduces radical change in the beliefs and sentiments of the community … it is obliged to support hard proof in public discussions, defend itself against the attacks of philosophers and doctrinaires, combat the blindness of indifference created by certain traditional biases of the social conscience. [De Los Angeles, 1919:16; trans. from Spanish]

Although he lauded Villamor for compiling judicial statistics, De Los Angeles still lamented the inadequacy of more concerted efforts in crime statistics. He even suggested that available judicial statistics were limited to the concerns of the courts, but he did not realize the full promise of statistics as a science. He contended that the police should gather information not only about the offenders' demographic background but also about their anthropometric traits to effectively aid the identification of criminal offenders [De Los Angeles, 1919:55].

In his conceptual approach in the study of Bilibid inmates, and even more so in his rhetorical propositions on the need for the scientific study of crime and the criminal offender, De Los Angeles integrated the more updated contributions of Lombroso's disciples. Among these were the Italian positivists Rafaelle Garofalo and Enrico Ferri, the Spanish criminologists Bernaldo de Quirós and Pedro Montero, the English criminologist Charles Goring, and other European and emerging American scholars. He integrated their ideas on the contributions of the physical environment and social and economic factors in criminal behavior. He also referred several times to proceedings of the International Congress of Criminal Anthropology in Paris and, less frequently, to those of the Congress of the American Prison Association.

Adopting an interdisciplinary approach, De Los Angeles covered a comprehensive range of variables in studying Bilibid inmates, ranging from their biological and physical characteristics, to their psychological and intellectual traits, to their ethnic/provincial origins. He also moved on to expound on the economic, social, and cultural characteristics of Philippine society and culture, detailing the negative influence of poverty on the Filipino people, misguided Filipino customs, traditions, superstitions, vices and other premodern irrational values that earlier Villamor had also condemned.

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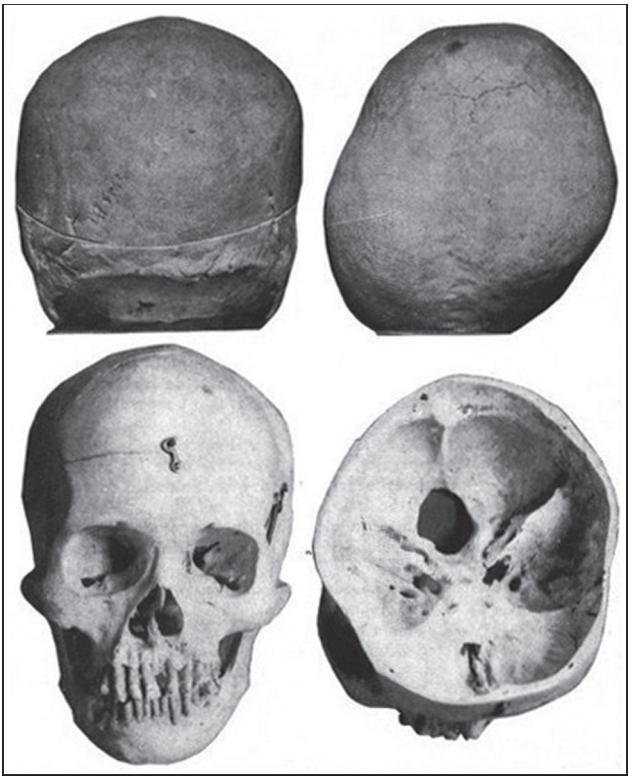
De Los Angeles embarked on a comprehensive study of a sample of Bilibid inmates, documenting vital statistical information about the characteristics and conditions of some 2,400 inmates in confinement in 1917; and he made a closer clinical examination of a sample within the population consisting of 100 male and 8 female inmates.

De Los Angeles prepared a comprehensive *plano de estudio* (study plan) to analyze the physical and psychological characteristics of the inmates. The plan required complete demographic data, family history (including social, behavioral and criminal history), and the inmates' criminal history and court records. The plan also included extensive anthropometric measurements involving more than 30 variables, among them length of ears, length of pubis, length of fingers, maximum circumference of thorax and abdomen, the amount and distribution of hair, and tattoos. Inmates were also measured using more than 30 craniometrical variables. Autopsies of deceased convicts were conducted to investigate "cranial anomalies" that verify the link of stigmata and degenerative physical traits. De Los Angeles's study plan further investigated such mental and psychological traits as intelligence, memory, "moral character" (*carácter moral*), emotions, and suggestibility. These characteristics were measured with such psychometric tests as the Binet-Simon intelligence scale. Physiological characteristics (e.g., sensitivity to touch, temperature, and pain; and muscular, visual, and auditory responses), were measured. A chapter was dedicated to a discussion of the methodology, measures, and scales used in the study. Figure 12.3 is a photograph of a specimen from the De Los Angeles study.

The main findings worthy of being highlighted in the De Los Angeles study are those that deal with his own clinical measurements and observations of the 100 male and 8 female inmates, which he then compared with existing data from several anthropometric-based studies on the Philippine population of anthropologists Robert Bennet Bean, Daniel Folkmar, and French researcher J. Montano on *Filipinos normales*, or "noncriminal" Filipinos. From the comparison, he concluded that his criminal sample had a smaller cephalic index (ratio of the breadth of the head to its length) than those of the three noncriminal samples, which tend to have limited variation among the groups [De Los Angeles, 1919:87].

The basic limitation of the comparison derived from the lack of common bases and measures for comparison, a limitation partially recognized by De Los Angeles. The largest data set for the comparison, from Robert Bean, had data on measurements of Filipino and *mestizo* students (18 years old and above) in Manila schools, who had come from different parts of the archipelago, combined with his measurements of ethnic groups in the northern Philippines [Bean, 1909:217]. That this largest of comparison groups may have the clear advantage of social status, health, and nutrition, as indicated by their readier access to education than the mostly illiterate

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Craneo del P. No. 10596. Mesaticofalo.Capaoldad craneal,1,536 cc. Edad, 67 anos. Crimen asesinato. Sentencia, cadena perpelus y P1,000 de indemnizacion. Sinostosis prematura, subescafocefalia, asimetria craneal, asimetria facial, desviacion del tabique nasal, foseta occipital vermiforme y anomalias dentaries.

Figure 12.3 A specimen from the De Los Angeles study. (From Bureau of Prisons, Department of Justice. *Convict labor in the Philippine Islands*. Manila: Bureau of Printing, 1925.)

sample from Bilibid prison,* is a less serious flaw than De Los Angeles's neglectful assumptions about the nature of his other comparison group. A closer examination of the background of the studies reveals that De Los Angeles had used Folkmar's anthropometric data, derived from Bilibid inmates in 1903 and published in his *Album of Philippine Types*, and not from a supposedly "noncriminal" population. The evidence can be found through an examination of Bean's article [Table 3, p. 291] in the 1909 issue of the *Philippine Journal of Science* cited by De Los Angeles. Examining Bean's presentation of Table 3, it indeed appears that the data De Los Angeles used were derived from Folkmar's Bilibid data.

* Bean himself noted that "Montano and Folkmar's measurements were of the common people whereas [his] are of students, presumably from better classes, and mestizos; therefore foreign blood and nurture" [Bean, 1909:264].

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Although most of the data presented by De Los Angeles focused on anthropometric measurements, and the plan of study clearly had a biological emphasis, a great deal of his discussion was cultural. In a chapter entitled, "Specific Causes of Crime in the Philippines," he discussed how certain cultural traits contribute to criminality, among them "the traditional Malayan practice or disposition" of *amok*, moral insensibility, inclination to vice, superstition, the vices of alcohol, gambling, opium, and poverty (*el pauperismo*). Anecdotal citation of cases and common sense observations were supplied to bolster these discussions, rather than results from systematic experiments or data gathering.

Like Villamor, De Los Angeles adopted an eclectic, interdisciplinary approach. Although his work might be regarded to focus more on criminal anthropology, he was open to explanations of criminality other than those based on biological parameters, and to other disciplines participating in understanding criminality and criminal offenders. De Los Angeles was clear on the advantages of an interdisciplinary collaboration. He asserted that criminal anthropology must work with related groups of professionals such as lawyers, psychologists, sociologists, anthropologists, and physicians [De Los Angeles, 1919:19].

12.6 American Science, Filipino Science: Competition and Collaboration

A good number of American expatriate scientists had built subsequent careers in the United States on researches experience in the Philippines. The Americans were reluctant to give Filipino scientists the full freedom to take over the direction of scientific endeavors in the archipelago. In his evaluation of colonial science in the Philippines, Anderson [2007:304] notes that the first generation of American scientists and officials in the Philippines worried that Filipinization policies of scientific programs were premature and would compromise the quality of scientific work; "until the 1920s, many American continued to regard Filipinos as unqualified for science."

William Musgrave, the first department head of the Philippine Medical School, later transformed into the University of the Philippines School of Medicine, distrusted the Filipino researcher as a "copyist, an imitator, [who has] no constructive genius or initiative" [1912:166]. One wonders how the Filipino scientists reacted to such criticism. A clue as to the sentiments of Filipino scientists can be found in some of their own reflections about their work. De Los Angeles's preface to *Legal Medicine / Forensic Medicine*, published in 1934, appeared to be a belated defense against the charges of his American colleague at the University of the Philippines School of Medicine: "I am putting forward no claim for complete originality. So much has been

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written abroad on Legal Medicine that it is difficult to initiate a line of thought in this field without afterwards discovering that a similar train of ideas has already crossed the mind of some author beyond the seas" [De Los Angeles, 1934:v]

There was tension and competition between Filipino and American scientists, despite their seemingly open collaboration and the recognition of American and European scientific concepts in the works of Filipino authors. Filipino "criminologists" Villamor and De Los Angeles were Filipino intellectual elites well-placed in Philippine academe preparing to assume leadership, once full independence was granted to the Philippines, in both political and scientific matters. Educated in Spanish in Philippine academic institutions founded by Spain, Villamor and De Los Angeles found ways to assert their qualifications and to claim the right to engage in scientific analysis of their own culture with more legitimacy because they were "natives" of the culture under enquiry.

Villamor authoritatively forwarded his insights about the causes of and solution to the social problem of criminality, gleaned in consultation with the local fiscals. Regardless of whether such a process would pass contemporary standards of scientific rigor—and many scientific works all over the world of past generations have been found wanting—it was a serious attempt to ground theory to the field, and for the field to inductively contribute to or dispute theory.

In his preface to *Legal Medicine/Forensic Medicine*, De Los Angeles offered the volume "as a modest response to the persistent and ever increasing demand for a Philippine treatise on Legal Medicine … [through] a book so adapted to local needs, conditions and peculiarities" [De Los Angeles, 1934:v].

12.7 Conclusion

The study of criminality and criminal offenders in the early twentieth-century Philippines was marked by an eclectic combination of perspectives. The hold of positivism through the premium placed on data gathering and empirical evidence was palpable in the works of Filipino and American scientists during the period. In the works of Villamor and De Los Angeles, empirical material consisted of both quantitative and qualitative data, from crime records and criminal offenders, of anecdotes, opinions, and insights from Filipino local fiscals and scientific experts. Thus, the intellectual currents of positivist science in general and criminal anthropology in particular reached the intellectual and academic shores in the Philippines, albeit with the challenge of having to find the resonance of their theoretical concepts with local realities in criminality.

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From the work of De Los Angeles, criminal anthropology took center stage in explaining criminal tendencies among the offenders. However, the fundamental notion of the born criminal was no longer subscribed to by Filipino scholars. The revisions that Lombroso and his followers made to the original concept of the born criminal have widened to include other types of criminality that were affected by factors of the physical and social environment. Adopting the more sociological perspective of explaining the roots of criminality, Filipino criminologists found room to account for the economic, social, and political constraints that became the context of Filipino lawbreaking behaviors; criminality in the Philippines was deemed multicausal.

The American efforts to intensify the campaign for higher education and the building of scientific academic institutions, in addition to those Spain had established centuries earlier, provided the atmosphere in which positivism thrived, including those that hosted studies on criminality. However, it must be recognized that these studies were made possible because of certain prerequisites: a relatively modern justice system introduced by Spain in the late nineteenth century, the modern criminal code, the modern state prison (Bilibid), and a system of keeping and monitoring crime records.

The establishment of Bilibid prison enabled the systematic study of prison inmates in the Philippines. Daniel Folkmar forayed into the bodies of an "exotic" colonized people, studying the variations in the Filipino race or type, while Villamor forayed into the "exotic" bodies of his fellow Filipinos as potentially having a common link with other human criminals all over the world. Tyzzer and Strong used the population of captive human subjects for their medical research. The use of prison subjects and its tragic results in the cholera study in one of Strong's vaccine projects represented the vulnerability of prison subjects and the brunt of injury and fatality that fall on them when experimental accidents occur. Somehow, under the discourse of imprisoned offenders having to redeem themselves, inmates offering themselves to science seemed a justifiable sacrifice.

When one looks at the picture of criminality in the Philippines, a bias appears toward political crimes and offenses related to the political turmoil in the wake of the Philippine Revolution against Spain, the Spanish-American War, and the Philippine resistance against American occupation. Crime records were peppered with sensational cases about insurrection, rebellion, and sedition, as well as banditry, a crime simultaneously regarded or disputed as crime against property, public order, and the state.

Filipino discourse on criminality was infused with a rational-critical denunciation of criminal behavior, but it was also qualified by a commitment to nationalistically uphold Filipino identity and pride by ensuring that one did not give the impression that Filipinos are prone to criminality. Villamor and De Los Angeles, as members of the Filipino elite who had opted to collaborate with the colonial government, engaged this dilemma by advocating

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the lowering of crime rates in the country through economic development and education. This affirms their view of their involvement in criminology not just as an academic pursuit but as a national economic development agenda that regards criminality, illiteracy, and errant fragments of Filipino habits and culture as hindrances. While asserting their capability in doing research and enhanced legitimacy to speak about their own people and culture, they were also careful to show deference to their American colleagues and/or mentors to preserve the niche they had carved in Philippine academia and state leadership in anticipation of full autonomy once the United States granted independence to the Philippines.

The Philippines in the early twentieth century presented an opportunity for American scholars and scientists who were eager to demystify the physical and social phenomena of the Philippines. Many arrived in the Philippines to occupy officially sanctioned posts in the military, legal, political, economic, scientific, and academic institutions being established by the United States. Assuming privileged positions as more knowledgeable mentors to their Filipino local counterparts, Americans scientists collaborated with Filipino researchers; it is easy to imagine that competition between American and Filipino researchers must have taken place as well.

In the works of Villamor and De Los Angeles, the American curiosity about the "exotic" qualities of the newly acquired colony was reflected in their tendency to (over)present the various aspects and peculiarities of the Filipino culture and habits as background for understanding criminal behavior. But in affirming its distinctive identity, the interests of these two authors must have been to nationalistically present the Filipino culture and experience. Their participation in science can also be interpreted as an assertion of intellectual capability and academic expertise, as well of the distinction of their possession of the "native" perspective, being members of the culture and people being studied. Subscribing to an eclectic range of perspectives afforded them the flexibility to see criminal offenders as flawed beings, a minority of whom possessed organic biological or mental pathologies. But for the majority of Filipinos, criminality stemmed from constrained choices because of the lack of education, little economic opportunity, and the ill-effects of political turbulence that the country has suffered in its successive struggles against colonial occupation.

Indeed, locating criminological discourse in its milieu requires the understanding of the intellectual biographies of those who produced and channeled them and of the prevailing social and intellectual institutions of the milieu. In the case of the study of criminality and criminal offenders in the Philippines, these were attended by the political, economic, and intellectual quandaries of colonialism, issues pertaining to race, the hegemony of a colonial state policy and science, the participation of the members of the local political and intellectual elite, and the dynamics between state laws and culture.

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Response to Crime

IV

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Affluence, Disadvantage, and Fear of Crime

13

MURRAY LEE

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> Two scientists are racing for the good of all mankind
> …So determined
> Locked in heated battle for the cure that is the prize.
>
> **—The Flaming Lips**
> *"Race for the Prize," 1999*

13.1 Introduction

The problem of fear of crime was first "discovered" [Hale, 1996] or "invented'" [Lee, 2007] in the 1960s in the United States. Surveying it as a criminological social problem can be traced to the implementation of the first large-scale victim surveys undertaken between 1965 and 1967 [Biderman et al., 1967; Ennis, 1967; Reiss, 1967] at the behest of the U.S. President's Commission [1967]. That is not to suggest that fear of crime had not been experienced by individuals or populations prior to this period [see Pearson, 1983]; rather, it is to say that such fears had hitherto not been problematized in the manner they came to be in this period. From the mid-1960s, fear of crime became viewed as a legitimate research topic, expressing what appeared to be a range of concerns about urban disorder in the United States, and later about rising crime rates in the United Kingdom [Farrall and Lee, 2009]. Over the next three decades a huge corpus of research and literature attempted to

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explain "high" or "disproportionate" levels of fear of crime in particular sociodemographic groups and communities. Indeed, the 1970s and 1980s constituted, to use Ian Hacking's [1990] terminology, an "avalanche of printed numbers" in relation to fear of crime. As Hacking puts it, "many of the modern categories by which we think about people and their activities were put in place by an attempt to collect numerical data" [1991:182]. For researchers, there was indeed a "race for the prize"; explaining fear of crime became something of a criminological sideshow. Yet as the race continued to heat up, and more competitors circulated their increasingly elaborate research instruments to an unsuspecting public, the prize seemed ever farther away—indeed, for the most part they could not agree on even what the prize was or how to define it.

Nonetheless, this was no barrier to policymakers. In fact, as academic criminologists gradually lost interest in fear of crime, attention to the phenomenon only increased in administrative circles [Farrall and Lee, 2009]. As a problem for government, a plethora of differing policy strategies attempted to target and reduce the prevalence of fear of crime. From fixing 'broken windows," hardening targets of crime, providing the community with information on crime prevention and "real crime rates" to high-visibility policing, closed-circuit television (CCTV), public assurance policing, crime prevention through environmental design, and place management, fear of crime has been an identified enemy subjected to a policy barrage. Despite this, levels of fear continue to show a stubborn intransigence in their quantified form. Recent surveys have revealed increased levels of recorded fear in some quarters despite the continued drop in many categories of recorded crime (see later in the chapter).

A number of sociodemographic variables have been said to be associated or correlated with high levels of fear of crime. Researchers have repeatedly identified gender (women), prior victimization, age (the elderly), and lower-socioeconomic groups as being correlated with higher (and in some cases irrational) levels of fear of crime. Feminist [e.g., Stanko, 1997], left realist [e.g., Jones, MacLean, and Young, 1986], psychosocial [e.g., Hollway and Jefferson, 2000; Gadd and Jefferson, 2009], poststructuralist [e.g., Lee, 2007], and even critical empirical [e.g., Sutton and Farrall, 2009] researchers have chiseled away at the gender variable, largely explaining it as related to women's experiences of "everyday violence," increased physical vulnerability and the particularly traumatic types of crime experienced (sexual assault and domestic violence in particular), and/or particular subjective biographies, or as an artefact of differential or distorted reporting. Likewise, the variable of age has been rendered problematic along similar lines. This chapter, however, takes the problem of socioeconomic disadvantage or "community disorganization and disorder" as its target. Under discussion here is the question of whether socioeconomic disadvantage really is

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correlated with fear of crime, or whether in fact this, too, is largely a result of the methodological and conceptual frameworks through which we view perceptions about crime.

Crucially, this chapter argues that in wedding fear of crime to disadvantage or disorganization, we as researchers are missing or rendering invisible one of the principle drivers of fear of crime discourse and the fear of crime industry. That is, the relative affluence and the conspicuous consumption that go with it is a principle driver of crime fear, not only for the affluent themselves but also for the aspirations of a broader community. Moreover, such a discourse and the conspicuous consumption of security it engenders further fuel the sense of isolation and disorganization felt by disadvantaged communities, thereby increasing their stake in crime talk and, by extension, fear of crime discourse.

13.2 Fear of Crime as a Psychosocial "Bad"

Fear of crime is generally regarded as a negative experience, a social problem with detrimental ramifications for the community and individuals. It is normally seen to be, to paraphrase Ulrich Beck [1992], a "bad," apparently distributed widely across the social body. Farrall and Gadd [2004] report on the British distribution of such "bads" thus:

> The numbers of individuals and groups affected by such fears is quite staggering. For example, the 1994 British Crime Survey reported that a quarter of the population were "very worried" about burglary and rape.…The same report suggested that of a range of contemporary life worries, burglary and rape headed the list … out-stripping job loss, road accidents, illnesses and debt. Later sweeps of the BCS suggested that the 1994 figures represent something of a "blip," and that or the period between 1984 and 2000 around 20 per cent of the population were "very worried" about burglary.…The same survey reported that the proportion of respondents feeling "very worried" about street crimes (muggings and robberies) similarly hovered around the 20 per cent mark. Crime surveys of rural areas … have suggested similar rates of fear of crime.

The situation is similar in many Western democracies. In Australia, for example, in response to the "global scenario" question of whether one feels safe walking out alone after dark, respondents apparently reported the following:

> Of those who did or could walk alone in their local area after dark, the majority (84%) of males felt safe. In contrast, less than half (42%) of females felt safe doing so. Of this group, 44% of females compared with 7% of males chose not to walk alone in their local area after dark because they felt unsafe. [ABS, 2006]

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And in the United States, the Gallup organization reported in 2007, after years of overall declining U.S. crime rates, that

> the public was much more optimistic about crime a few years ago than it is today, according to Gallup's annual crime poll. With about half of Americans currently saying crime is up in their local areas, and about 7 in 10 saying it is up nationally, Americans have a decidedly negative outlook about crime. [Gallop Poll, 2008]

Nobody likes crime, it seems, and no notion of its normalcy [Durkheim, 1933] or, indeed, normalization [Garland, 2001] will convince one otherwise. So the issue of fear of crime continues to appear a problem in and of itself, unhinged from the objective risk of victimization, and so something to be targeted through a range of key performance indicators by government departments [Lee, 2009]. The pursuit of reduced fear of crime continues.

But is fear of crime always a "bad," always a negative? If we expand our analysis to the notion of fear in general (rather than specifically fear of crime) the evidence seems to suggest not. Governments and policymakers *use* fear regularly and not always negatively—although it is usually aimed at actuating individuals to take specific steps to avoid the risks of something negative or destructive. That is, it is often deployed productively so as to encourage risk avoidance—it can, in short, be a technology or tactic of risk. For example, graphic images of a range of cancers, blood clots, and the like are deployed to discourage us from smoking. Graphic images of automobile accidents are deployed to encourage us to follow traffic laws and discourage us from speeding, driving under the influence of drugs and alcohol, and the like. In Australia in the late 1980s, the image of the Grim Reaper bowling down people represented as ten-pins proved to be most effective in reducing the spread of HIV-AIDS infection. Indeed, on international comparisons, Australia over the period of that advertisement maintained very low levels of new cases of infection. Fear of a range of things, then, is regularly deployed by governments and policymakers to encourage certain forms of behavior and to discourage others deemed risky.

Is fear of crime used in a similar manner? Of course. Fear of crime becomes an actuating method for a range of crime prevention measures. While a rationale of risk minimization might be the aim of a governmental or a policy strategy, fear of crime is often one technique through which the target of risk reduction is to be realized. One only need look at much of the crime prevention instruction literature to support this statement [Lee, 2007]. Shadowy feared subjects haunt reams of this literature, imploring us to be instrumental in ensuring our own security. As Mythen and Walklate

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[2006:12] have put it in another context, "neo-liberal institutions have sought to 'activate' individuals by making them answerable for the risks and uncertainties that crop up in everyday life. Citizens have become 'multiply responsibilised' around the management of financial security, employment, crime and welfare." This is not to suggest that such strategies are in any way necessarily conspiratorial; for the most part such crime prevention information attempts to do a public good. However, much of this literature uses an element of fear to achieve this good. Take the following extract from a *Personal Security* brochure from the New South Wales (NSW) Attorney General's Office [2008]:

1. Avoid walking alone at night. Try to walk with other people at night. If alone, walk in well-lit areas or catch a taxi even if you're only going a short distance.
2. Protect your bag or briefcase. Carry your bag or briefcase securely on the side furthest from the road to reduce the risk of bag snatching. Make sure your bag is zipped up and not easily accessible.
3. Be cautious when using ATMs. Be alert when withdrawing cash and don't count money in view of other people. Be cautious when using ATMs in isolated areas or dark locations.
4. Be aware of your surroundings. Be alert and aware of what's going on around you. Wearing headphones, or texting/talking on your mobile can reduce your alertness and can make you more vulnerable to personal crime.
5. Be confident and assertive. Walking with confidence, using strong body language and making eye contact with others will reduce your risk of being targeted.
6. Isolated areas are a risk. Try to keep to populated areas with lots of activity whether you're exercising, or just out and about, especially at night.

And it continues:

1. Walk in groups. If you're going out alone tell someone where you are going.
2. Carry a personal alarm. Consider carrying a personal safety alarm in case of an incident.
3. Develop a personal safety plan. Plan what to do in different situations where your safety might be threatened.
4. Never accept lifts. Never accept a lift from somebody you don't know.
5. Don't use shortcuts or back lanes. Even though it can be tempting to save time, avoid isolated short-cuts especially at night time.
6. Vary your route for regular activity. For routine activities such as exercise or walking to and from work, school or university, try to vary your route.

Here, it is obvious that self-governance, and the element of fear required to actuate it, is a priority. Such literature also implores us to actively engage

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the market for our security solutions, as Figure 13.1, taken from the NSW Attorney General's Department, indicates.

If the foregoing point is true of governmental crime prevention material, the use of fear of crime as an actuator for the sale of private crime prevention and security technologies is far more pervasive. Dovetailing with governmental crime prevention strategies, private providers use the perceived threat of crime to sell us insurance, CCTV, security hardware and software, gated community (or equivalent secure apartments), private security and policing, and access technology, and the list goes on [see Lee, 2007]. While concern about crime might not be the only factor that drives the consumption of certain security services, as Low [2004] has argued in relation to gated communities, it is certainly a key theme of residents who move to such areas. As such, the governmental message, coupled with market solutions, constitutes a particular neoliberal governmental approach that pushes the consumption of security.

Keith Hayward [2004] has clearly articulated the link between contemporary consumer societies and the marketing of security. Further developing Mike Davis's [1990, 1998] analysis and drawing on the work of George S. Rigakos [1999, cited in Hayward, 2004] and Stephen Spitzer [1987, cited in Hayward, 2004]. Hayward argues that security and surveillance have become market commodities and that fear of crime is increasingly played on and utilized in this process. This notion is distilled in Spitzer's claim that

> safety (like love, happiness, prosperity and fulfillment) is a social need that can be activated in a wide range of decisions to consume, virtually all commodities can be invested with the aura of security—that is, presented, promoted, and ultimately consumed because of their ostensible ability to free the consumer from worry, trouble and harm. [Spitzer 1987, cited in Hayward, 2004:129]

Intruder alarm systems

Intruder alarm systems should be manufactured and installed to the Australian/New Zealand standard. Research has shown that monitored/back-to-base intruder alarm systems are more effective as they alert your security company of intrusions, resulting in a quicker response. The system should be designed to provide maximum coverage of the home and garage. Remember to regularly check the battery and test the system.

Question	Yes	No	Comment	Date to be fixed	Completed
Does your house and garage have an intruder alarm system installed?	❑	❑			❑
Is the intruder alarm system monitored/back-to-base?	❑	❑			❑
Do you regularly test your alarm system and check the battery?	❑	❑			❑
Do you have an alarm system sticker displayed to deter possible intruders?	❑	❑			❑

Figure 13.1 Intruder alarm systems. (From NSW [New South Wales] Attorney General's Office, *Personal security*, Security Factsheet Series Issue 4. Sydney: NSW Attorney General's Office, 2008.)

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Hayward goes on to suggest that such commodification has moved beyond simply the marketing of fear. Rather, "surveillance has become not just acceptable or commonplace but cool, fashionable and even aspirational," and our fetishism has gone well beyond "feel good" (safety, comfort, reassurance) sensations. Contemporary consumer society actually celebrates the loss of liberties that surveillance and security technologies usher in—Big Brother, YouTube, and the like. "This is a world where surveillance—the process of constantly being watched and scrutinized—is deemed fun, pleasurable and a potential sources of entertainment and profit" [Hayward, 2004:131]. There is one last point that the following discussion borrows from Hayward's analysis, and perhaps from cultural criminology more generally, namely, that any analysis of the dynamics of a concept like fear of crime needs to focus not only on tales of urban strife and disorganization but also on the '"pampered middle class" [ibid.:131]. As he notes, drawing from Bauman [1987, 1991], we must focus on the "seduced," not just the "repressed."

13.3 Fear of Crime as a Discursive Topic

In previous work, this author has argued that fear of crime is a historically contingent concept [Lee, 1999, 2001, 2007]. My point was not that fear of crime did not exist, although I am sympathetic to Jason Ditton's comment to that effect. Rather, I sought to place the criminological and political concept of fear of crime in the discursive and historical context in which it developed, to look at how the concept became thinkable and the term came to have linguistic purchase. In doing so, I wished to problematize the ways in which much research—particularly quantitative surveys—has treated what is at best a problematic umbrella term for a range of reactions to crime or the symbols of crime as an objective and relatively universal category. Put schematically, I suggested, by doing so criminological knowledge had fed political discourse, which had in turn helped create the very fear of crime researchers purported to measure. I called this the "fear of crime feedback loop" and argued it could in part be traced, inter alia, to the development of the victim survey and some unintended consequences of this:

> Research into victims produces and maintains the criminological concept of "fear of crime" quantitatively and discursively; that this information operates to identify fear as a legitimate object of governance or governmental regulation; that the techniques of regulation imagine particular types of citizens—*fearing subjects*; that these attempts to govern 'fear of crime" actually inform the citizenry that they are indeed fearful; that this sensitizes the citizenry to "fear of crime"; that the law and order lobby and populist politicians use this supposed fearing population to justify a tougher approach on crime, a point

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> on which they grandstand, and in doing so sensitize citizens to fear once again; and that this spurs more research into "fear of crime" and so on. [Lee, 2001:480–81]

Later I expanded upon this to include a discussion of how fear of crime was also used by the private sector to sell security and how this, in turn, fed the fear of crime feedback loop.*

The general thrust of my critical argument, one hopes, reinforced, and was reinforced by, others who had also become disillusioned by the rapidly increasing body of fear of crime research [Ditton et al., 1999; Ditton and Farrall, 2000; Hollway and Jefferson, 2000; Stanko, 2000]. In particular, work by Jason Ditton and Stephen Farrall and a range of coresearchers was blowing a serious hole in the notion that fear of crime as measured by survey instruments was a clear and unitary category. Ditton and others [1999], working within, but manipulating, the survey form itself clearly showed that given a choice, most respondents would report being angry rather than afraid. Indeed, they found that "'anger' dominates 'afraid' across the board" in every age and gender category [Ditton et al., 2000]. They also found if they disaggregated their data in a particular way, it was possible to find only one "very worried" individual out of a study of some 1,629 respondents. This led them to conclude rather drolly that "viewing the situation rather unsympathetically, we have one person who is 'really' worried. But is this a social problem but a medical one?" [Ditton et al., 2000:154]. The point, of course, was, was all this fear of crime simply a result of the instruments we were using to measure it?

Later Farrall and Gadd [2004] recognized that when fear was experienced, as opposed to simply expressed, it was at relatively low frequencies. In other words, highly fearful episodes were relatively rare even in supposedly fearful, or indeed angry, individuals. This, Farrall [2004a, b] suggested, had implications not only for how we understood fear of crime but also how resources might be best channeled into dealing with the problem and then how such interventions might be evaluated. Thus, he argued for asking how many times in the past year a fearful episode had been experienced.

Meanwhile, Hollway and Jefferson [2000] showed us the importance of individual biographies to a respondent's likelihood of reporting fearfulness. While they were sympathetic to the notion that the *fearing subject*—to use my terminology—could be discursively constructed, they were skeptical that sociological frameworks and social constructionism alone could account for subjective differences within similar sociodemographic groups. Their psychosocial approach, drawing on the concept of anxiety

* Farrall and Lee [2009:4] have produced a diagramatic representation of this fear of crime feedback loop and attempted to incorporate many of the integral components of this.

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in psychoanalysis, led them to an in-depth narrative interview method. If we were just positioned as a fearing subject discursively, they argued, "there would be no variation within a group, say, of old women, yet not all old women we interviewed were fearful, nor were all young men fearless" [Hollway and Jefferson, 2000:15]. They go on to suggest that we need to understand the *investments* or *stake* that individuals might have in a *fear of crime discourse*, "the systems of meaning within which they may be positioned" [2000:15]. In this sense they demonstrate how, why, and when individuals might situate themselves in relation to a fear of crime discourse. This is significant, since it provides a cross-register bridge from the sort of metadiscursive analysis this author has sought to articulate; individuals positioned intersubjectively in relation to these metadiscourses and a range of other local and global factors. In short, it opens the door to understanding why some individuals become "fearing subjects" and others do not [see Gadd and Jefferson, 2008:132].

Evi Girling and her colleagues Ian Loader and Richards Sparks [2000] pointed to how crime talk played a part in daily community interaction and discussion; as such, what we have come to call fear of crime plays a function in the local community and the broader politics of place and social change. They suggested that crime talk was rarely a reflection of objective risk or even behavioral change, but that it consisted of a range of narratives and metaphors about social change and lay attempts to make sense of such changes [ibid., 2000; Sparks, 1992]. Importantly, they suggested the investments an individual might have in a fear of crime discourse—in a certain type of crime talk—were likely to be related to "their place within prevailing social hierarchies and their ensuing relationship to a particular geographical community" [Girling, Loader, and Sparks, 2000:171]. Important to my argument here, they also go on to point out that many of the more well-off respondents of their study, almost as a matter of course, installed alarms and security systems; although many stopped short of advocating other measures like CCTV, the fortified gates and grates of many properties at least hinted at a future the likes of which Mike Davis [1998] so colorfully articulates in Los Angeles. So while many of these residents who consumed this security wherewithal might not articulate being fearful per se, their actions at least indicate they have no great objection to using their wealth to further ensure their well-being. Loader and his colleagues [2000:78] suggests that prosperous, middle-class individuals

> retain a capacity to insure and insulate themselves against criminal threats, that they can protect their properties by taking such protective precautions, as their resources, levels of anxiety and *Weltanschauung* lead them to see fit. By placing themselves in fortified homes behind high walls and imposing iron gates, individuals can to a large extent keep the hostile world at bay.

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And in a sense, these affluent residents are already partly insulated by buying into this affluent neighborhood. The housing market itself creates a form of exclusion and exclusivity [Loader et al., 2000; also see Hope, 2000].

Jackson [2004:950] has suggested that listening to crime talk allows researchers to examine the interpretive and evaluative "function" of the stories that are told. These narratives serve to impose a coherence on beliefs concerning not only crime but also social relations, social change, and social order more generally. Crime, he suggests, operates as a symbolic expression of other "issues, conflicts, insecurities and anxieties regarding one's neighbourhood, its social makeup and status, its place in the world, and the sense that problems from outside were creeping in." Moreover, "these symbols reveal neo-Durkheimian evaluations of moral and ideological boundaries: people identify things in their community that are hostile to social order; they designate these as representative of criminal threat" [Jackson, 2008:144].

Farrall, Jackson, and Grey [2006] have tried to more accurately plot the psychological attributes to fear of crime and to articulate a continuum between what they term "emotive" and "expressive" fears thus:

> As such, and as a lived experience, the fear of crime represents a continuum of feelings which are distributed along a spectrum between two distinctly different ideal typical emotional reactions. At one end, the most emotive aspect is the experience(s) of having felt fearful in a specific situation. At the other, is a set of attitudes or opinions which are brought forth when people are asked to discuss their feelings about crime. This "invocation of attitude"—which surveys provoke and measurewe shall refer to as the "expressive" dimension of the fear of crime (in contrast to the "experiential" dimension). [Farrall, Jackson, and Gray, 2006:18]

There is an important point here, and Jackson [2009:150], drawing on his collaborative work [Jackson et al., 2008] articulates it thus: "In fact, those who reported being worried about crime but did not actually worry (that is, the anxious) tended to live in lower crime areas, have fewer victimisation experiences, and know fewer victims" [Jackson et al., 2008]. This suggests that the fear of crime manifests in the everyday when individuals are typically at the "sharp end of life"—perhaps they find themselves in threatening situations more frequently than those who lead more protected lives, who if they have some kind of "fear" are more likely to be "anxious."

This is significant precisely because it indicates that respondents living in lower-crime areas will often articulate at least one form of fear—expressive fear, to use Jackson's characterization. While Jackson and his colleagues [2008] suggest this is what "surveys provoke and measure," perhaps it is this that is expressed in the conspicuous consumption of

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security services and devices? That is, market solutions, out of reach for those at "the sharp end of life," increasingly insulate those in lower-crime areas from the frequency of threatening situations and so the experience of emotive fear.

13.4 Fear and Socioeconomic (Dis)Advantage

Where socioeconomic correlations have been deployed in the fear of crime research results, they have tended to suggest that socioeconomic disadvantage in communities can be positively linked to higher levels of fear of crime [see Hale, 1996]. As Hale [ibid.:103] succinctly put it in his review of the literature, "Ethnic minorities, the poor and the less well educated tend to be more fearful than the affluent, whites and the better educated." Hale goes on to point out that environmental and contextual factors are important and that such issues as racism, vulnerability, lack of confidence in the police, lack of political and organizational networks, and the like are likely to play a part according to the available studies. Or, as Hough [1994] argued, variables related to social class indicate that "semi-skilled" and 'unskilled manual occupation households" fear crime more than the middle classes. And more recent findings of the British Crime Survey (BCS) (Nicholas et al., 2007) appear to reinforce these findings. Allen [2006; cited in Nicholas et al., 2007:100] notes in assessing the British Crime Survey (2004/2005) that there were four factors most strongly independently associated with high levels of worry about burglary:

Believing it likely their home will be burgled in the coming year.
Perceiving a high level of antisocial behavior in the local area.
Having a low household income.
Being from a minority ethnic group.

More specifically, it is argued that there is a correlation between fear of crime, urban decay, and a community's resource capacity to produce an organizational base [Taub, Taylor, and Dunham, 1984; Skogan, 1986; Taylor, Evans, and Frazer, 1996].

Likewise, Pantazas [2000:431], drawing on the BCS data, was able to suggest the following:

> The poorest people in society suffer the greatest from a whole range of insecurities that relate to crime and the prospect of experiencing a number of noncriminal incidents such as job loss, financial debts, and illness. Thus 'fear of crime' and worry about a range of non-criminal incidents can be seen as a part of a long chain of insecurities that are experienced more acutely by people living in poverty].

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These links, however, remain relatively unexplored and rely heavily on an uncritical acceptance of fear of crime as measured despite the now-long list of criticisms of such measures. An exception is Hollway and Jefferson's work [2000], which instead, as explained earlier, notes the stake or investment that individuals might have in expressing particular discourses about crime. Likewise an exception is Girling, Loader, and Sparks's work [2000], which highlight's the cultural function of crime talk discursively. It is not, then, that residents from disadvantaged backgrounds necessarily *have* or *suffer from* a greater fear of crime. Rather, their particular circumstances understandably create situations that engender a greater stake in a *fear of crime discourse*. There is a crucial distinction to be made here, and it goes to the core of why fear of crime is such a poor organizing principle. One need not necessarily be fearful at all to have a stake in the discourse. On the other hand, one may well be quite concerned about crime to the point of locking oneself in a gated community, but one may have relatively little stake in a fear of crime discourse and would thus be unlikely to present as fearing when confronted with a victim survey.

Susan Smith noted back in 1989 that the variability, distribution, and extent of fear of crime will be dependent upon a range of factors, including the cultural climate of the country, the social climate of particular communities, and the emotional state of individuals [Smith, 1989; Hale et al., 1994]. In more recent work with Rachel Pain, they note:

> The question of who can and does name fear is answered partly by understanding whose voices, and whose labels, are privileged. Successive politicians have played to the "fears" of middle class, white suburbanites, while validating and reinforcing them, and as explored elsewhere, some recent academic analyses do the same.… Terror fears, reflecting imaginary geographies of Western countries as newly risky … are fears of the white, privileged and protected. [Smith and Pain, 2008:53]

The point here is that ones relationship to a fear of crime discourse is highly complex and contingent. Thus, the fearing "ethnic minorities, poor and less well educated" of the corpus of fear of crime research are likely to have a stake in fear of crime discourse and as such deploy it as a resource when it is offered—as it so often is in the crime survey format. On the other hand, the affluent and secured do not necessarily require it as a discourse as often; and when it is used, it is likely to describe a threat of crime "elsewhere" or a threat of some "other" population. Tim Hope [2000] has made a related point when he articulated the increasing "clubbing of security"; that is, those that can afford to do so progressively secure themselves through the consumption of security, whereas those left out of the security club become progressively unsafe as opportunities for crime are reallocated. But it goes

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further. Hayward [2004:138], for example, notes the consumer-driven nature of postmodern securitization, where social control is "no control except on the boundary."

The question here becomes one of who is actually driving a fear of crime discourse and how is the stake in this discourse being used by respondents. We respond to the fears of disadvantaged communities through attempting to normalize their experience; we attempt to "place-manage," "community-build," police through "high visibility," and the like. But does this deficit model miss the point entirely? The problems here are structural and cultural ones that manifest at a higher level than the "sink estate." While neoliberal mentalities of government asks us to secure our lives through self-actualization and market solutions (alarms, CCTV, window locks, etc.), they both reinforce a fear of crime discourse and recreate a stake in this discourse as disadvantaged communities find themselves ever distanced from the "security club." Fear of crime is not something that can simply be built out of communities without broader restructuring. At present, the so-called discovery of fear as largely the domain of the disadvantaged continues, to some extent, to blame these communities for their own fear.

Research from South Africa can tell us something very interesting about fear of crime and how its prevalence can be connected not to disadvantage but to relative affluence. Lemanski [2004:106] found that the majority (80%) of Capetonians with some level of property protection identified it as crucial in alleviating their fear of crime. And indeed, a 1998 survey found those whites with protection reportedly feeling safer in their own neighborhoods (often gated residential areas). However, over time even tighter security defenses were needed to maintain the sense of safety.

By 2003 the situation had altered at a national level; whites no longer felt safe in their residential areas, even during the daytime, in spite of an increase in excessive fortification. As those with wealth blockaded themselves in, their fear of the increasingly unknown outside exploded, leading to further fortification and, hence, deeper fear [Lamanski, 2004:106].

And as Low [2004] has pointed out in relation to similar gated communities in the United States, people move to their communities precisely to capture a sense of security that is aimed at not only at reducing their fears but also capturing the imagined safety and security of their childhoods.

Lemanski [2004:103] goes on to suggest as follows:

> Citizen fear management-strategies of erecting walls and enclosing neighbourhoods have had a perverse effect, leaving both public and private spaces devoid of Jacobs' natural surveillance (and thereby less safe), and making use of a perverted form of Newman's "defensible space" to facilitate tribal territorialism that serves to increase fears and deepen segregation.

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The broader argument made here is that while variables related to social class have been said to indicate that people from semiskilled and unskilled manual occupation households have higher levels of fear, this hides the fact that fear of crime and a fear of crime industry are actually being driven by the wealthy, middle, and aspirational classes, as well as by the neoliberal mentality of government that actuates them into joining the "security club." That fear of crime is not simply more prevalent among the so-called working classes; many disadvantaged individuals simply have a higher stake in fear of crime discourse (and, indeed, in crime talk in general). Moreover, on the other hand, as the middle classes join what Hope [2000] has termed the "security club," purchasing their security in gated communities, house alarms, private security, and the like, they fuel a fear of crime discourse.

13.5 Conclusion

The argument here is that if we reconceived fear of crime as discursive, rather than simply as some psychosocial quasi-objective phenomenon, the question of who fears crime, and indeed who drives a fear of crime discourse, becomes much less clear. Conceptual frameworks for understanding fear of crime have largely been deficit models, namely, that fear of crime is seen as a bad related to an individual, group, or community's lack of security services, successful policing, and a range of other variables. The policy focus then becomes one of rectifying these deficits.

On one level we can appreciate that this model might well result in some decent programs and policies. Indeed, it is the stuff of "place-management," "community-building," "community policing," and the like. On the other hand, this deficit model may mask a range of more important issues that speak to the condition of late-modern social organization and overall social inclusion and exclusion. If the movement to various forms of exclusion results in the intensification of fear of crime discourse, not just from below, where we can identify a stake in the crime talk that actuates this discourse, but from above, where (in)security discourses and crime fear drive entire industries, this opens up a separate set of problematizations and a different set of possibilities in terms of addressing unease.

Thus, in wedding the fear of crime to disadvantage or disorganization to a deficit model, researchers largely render invisible one of the principle drivers of fear of crime. Affluence and the conspicuous consumption that goes with it are principle drivers of crime fear. This not only is true for the affluent but also drives the aspirations of a broader community, adding to the earlier-mentioned fear of crime feedback loop [Lee, 2001, 2007]. Such a discourse, and the further conspicuous consumption of security it engenders, further fuels the sense of isolation and disorganization felt by disadvantaged

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communities, thereby increasing their stake or investment in crime talk and, by extension, in fear of crime discourse. This is reflected in surveys that indicate that this population is fearful, and so our deficit model continues.

None of the foregoing suggests that fear of crime does not exist (or more correctly, that people do notf fear crime), but it does indicate, as argued elsewhere [Lee, 2007, 2008], that fear of crime is a poor organizing principle by which to understand a range of emotional reactions. To some extent, this might not necessarily be such a shock to those working in the quantitative field either; after all, most researchers in the area would argue that they are aware of the problematic nature of the concept. However, this has not brought a halt to inquiries—quite the opposite. Rather, the failure to know fear of crime has resulted in an intensification of attempts to render it knowable.

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Closed-Circuit Television
A Review of Its Development and Its Implications for Privacy

14

CLIVE NORRIS

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14.1 Introduction

This chapter briefly reviews the history of closed-circuit television (CCTV) surveillance in Britain; considers its growth, extent, and capabilities; and reviews the evidence as to its effectiveness. The chapter then goes on to survey how CCTV is regulated and its implications for privacy. But first of all: What is CCTV?

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14.1.1 What Is CCTV?

At its simplest, CCTV comprises a camera, coupled with a cable to a display monitor. It was this type of system in the early days of CCTV monitoring that was popular in many retail establishments, since it was an "affordable, do it your self, self contained system" [Constant and Turnbull, 1994:3]. These early systems were often extended to connect up to four cameras to the monitor, the images from which could be displayed individually or in a preprogrammed sequence. The cameras were generally static and had a fixed focal length. The next innovation was to add a video recorder, enabling the image displayed on the monitor to be recorded on videotape and played back at a later time. To this was added the ability to move the cameras in either the horizontal or vertical plane, often coupled with the capability to zoom, by permitting variable camera focal length. These fully functional cameras are often referred to as pan, tilt, and zoom (PTZ) cameras. The recording of images has also undergone considerable change. The sheer volume of tape required to capture the images of, say, a four-camera system recording in real time could be overwhelming.* The solution has typically been to "multiplex" the monitoring and recording so that images from four or more cameras are displayed on each screen and captured on a single tape. Doing this, of course, decreases the quality of each individual image, but it lessens the number of tapes required. However, it still requires the tapes to be changed every three hours. The solution to this problem has been to install time lapse recordings, so that rather than recording each camera in real time, the recording is updated at a slower rate.†

Many, particularly larger, CCTV systems incorporate the range of more advanced technical capablities, consisting of a number of fully functional PTZ cameras coupled, not just to a monitor, but to a recording device as well. Yet Gill and Spriggs [2005:1]. have noted that there is a "tendency within the criminological literature to discuss CCTV as if it were a single measure, CCTV systems can differ quite markedly." Indeed, in a survey of CCTV in London, McCahill and Norris [2002] found that three quarters of institutions had fixed cameras only, nearly one in ten (8%) had no recording facility, and a third (30%) did not have the capacity to multiplex the images.

It is not just in technical sophistication that CCTV systems differ. They also differ in their organizational arrangement. In themselves, cameras do nothing. I can mount a camera on a wall, couple it to a monitor and a

* Consider that if each camera were connected to a video recorder, a four-camera system, using three-hour tapes, would generate 900 tapes per month; it would require the almost constant supervision of the video recorders.

† In a five-camera system, the picture rate would be updated every 0.2 seconds. Each of the images for each camera is recorded at a rate of 5 frames per second as opposed to 25 frames per second associated with normal video recording. What this effectively means is that 80% of the information from each camera is lost.

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recorder, and have a CCTV system. But if no one notices the camera, and I do not look at either the monitor or the tapes, its social and criminological impact is zero. For a CCTV camera to have an effect, at the minimum, someone needs to be conscious of it and alter, or at least consider altering their behavior, because of its presence or believe that it will lead someone else to do the same [Ditton, 2000].*

It is therefore essential to recognize that CCTV is not merely a technical system—it is also a sociotechnical system. And to understand its impact, whether on crime, public safety, or privacy, it is necessary to understand that it is located in a highly varied organizational environment, and this variation will have a significant impact as to how a system is used. Some systems have permanently staffed control rooms, in which a team of operators monitor the images from the system on a 24-hour basis and can actively scan and track the population through the use of PTZ cameras. Other systems are unmonitored, and the tapes are reviewed only if incidents come to light. In some systems, control rooms are staffed by police officers directly linked to the command and control systems of their force and can order other police officers to attend incidents. In other systems civilian, local authority staff or private security officials monitor the cameras; and although they can relay pictures to the command and control room of their local police, have no power to determine what the police response will be (see Norris and Armstrong [1999:171] for a full discussion).

14.2 The Development of CCTV Surveillance in Britain

Some 60 years ago in London, in 1947, an enterprising Metropolitan Police superintendent proposed that the police should be allowed "to evaluate" the live TV footage of the BBC's coverage of the royal wedding (Princess Elizabeth's wedding before she became Queen, in 1952), so as to assist in the deployment of patrol officers. The request was refused on the grounds of expense [Williams, 2003:13], but so was born the idea that live television images could play a role in routine policing. Ten years later, in the 1950s, "police forces began to use CCTV to assist in the one-man operation of traffic lights" [Williams, 2003:13]. In 1960 the Metropolitan Police erected two temporary PTZ cameras in Trafalgar Square to monitor the crowds during a state visit to Parliament, and, in 1969, "4 different forces were using CCTV, a total of just 67 cameras nationally" [ibid.:17]. However, with the video recorder becoming commercially available during the 1960s, the early growth of CCTV was largely confined to the retail sector, and by 1967, one

* It must be remembered that the early evaluations of CCTV in the United Kingdom found that up to 60% of people in city centers that had installed CCTV were unaware of its presence; see Ditton [2000].

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company, Photoscan, was actively marketing CCTV to deter and apprehend shoplifters [McCahill and Norris, 2002].

For the next two decades CCTV gradually became a routine feature of security for the retail sector, and there was limited diffusion in other areas, such as the London Underground.* In 1975, 145 cameras were introduced to monitor traffic flow in central London streets. During the 1970s and early 1980s, police use of CCTV remained limited and focused on such marginal groups as football hooligans and political demonstrators [McCahill and Norris, 2002].

It was not until 1985 that the first large-scale public space surveillance system was erected, in Bournemouth, which was hosting the Conservative Party annual conference. The previous year's conference was marked by an IRA attempt to assassinate the prime minster and her cabinet by bombing the conference hotel. The explosion, while leaving Mrs. Thatcher unscathed, killed five people and injured many more. As a result, additional security was provided to the conference venue by introducing CCTV along the sea front.

However, rather than marking the beginning of a new trend, this seems to have been a singular event; and, while the gradual diffusion of CCTV continued in the retail and transport sectors, by 1991 in the United Kingdom there were no more than 10 cities with open street systems in operation. What characterized these systems was that they were small scale, locally funded, and set up as the result of individual entrepreneurship, often on the part of a local police officer [Ditton and Short, 1998]. It is possible that the diffusion of CCTV would have continued in this gradual manner had not, in 1993, the fuzzy CCTV images of toddler Jamie Bulger being led away from a Merseyside shopping mall by his two 10-year-old killers placed CCTV in the spotlight.† In the context of public anxiety, fueled by the Bulger tragedy and spiraling increases in recorded crime [Kember, 1995], Home Secretary Michael Howard announced a "City Challenge Competition" to allocate £2 million of central government money for open-street CCTV. To qualify, local partnerships would have to demonstrate matched funding from other sources, particularly business contributions. The Home Office was overwhelmed by applications; bids for 480 schemes were received, and although the government contribution increased to £5 million, only 106 schemes were funded [Norris and Armstrong, 1999:37–38].

In response to the huge demand, the government announced three further City Challenge Competitions between 1995 and 1998. In total, the goverment secured £85 million for the capital funding of CCTV systems, £31 million from central government and £54 million from partnerships.

* In 1975 cameras were installed on the Northern Line in an effort to prevent assaults on staff and combat robberies.

† These images were replayed night after night on the national news, achieving an iconic status in the subsequent moral panic about youth crime. Although CCTV had not managed to prevent the killing, the ghostly images at least held out the prospect that the culprits would be caught.

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This included contributions, not just from local businesses, but also from local authority budgets and European regeneration grants. In total, some 580 schemes were funded. By the mid-1990s, CCTV dominated the government's crime prevention program, accounting for over three quarters of its budget [Welsh and Farrington, 2004:500].

In 1997 the Conservatives lost the election, and in 1999 the new Labour administration, as part of its ambitious crime reduction program, set aside £153 million to support the expansion of CCTV throughout England and Wales and a further £17 million for Scotland. Again the money was to be allocated by competition, although the partnership funding requirements were dropped. In the first round of the competition, 750 bids were received, and by November 2000 some 339 schemes had been awarded funding totaling £59 million. The second round of the competition resulted in bids for over 800 schemes. Again the demand was high, and a total of £79 million was awarded to the 108 successful schemes [Norris, Wood, and McCahill, 2004].

Given that there was also substantial government investment in CCTV surveillance of schools, hospitals, and transportation facilities [McCahill and Norris, 2003], it is not unreasonable to estimate that in the last 10 years, over £500 million of central and local government funds have been allocated to CCTV. However, this represents only a small fraction of total spending. The industry statistics for CCTV sales during the early part of the 1990s estimate the total value of the UK CCTV market at around £100 million annually, and this had risen to £361 million in 1998. By 2002, market analysts were reporting year-on-year growth of 14–18% and estimating that the market would be in the region of £600 million per annum between 2004 and 2008. On the basis of these figures, it can be estimated that during the decade 1995–2005, around £5 billion was spent on the installation of CCTV and maintenance of CCTV systems in the United Kingdom, and this excludes the monitoring costs associated with these systems [Evans 1998; Keynote 2003:8; Security Installer, 2001, 2002, 2004a; Scottish Enterprise, 2005].

How many cameras this translates to is impossible to measure accurately, although in 1999 it was estimated that in an urban environment, on a busy day, one could have one's image captured by over 300 cameras on 30 separate CCTV systems [Norris and Armstrong, 1999]. More recently, Norris and McCahill "guestimated," on the basis of a survey in one London borough, that there may be as many as 4.2 million cameras in the United Kingdom, or 1 for every 14 of the population [McCahill and Norris, 2003].

14.3 Public Opinion and CCTV

The introduction of CCTV to city streets in the United Kingdom has enjoyed widespread public support, with successive surveys finding positive support

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for the deployment of CCTV cameras running at between 60% and 90% [Honess and Charman, 1992; Bennett and Gelsthorpe, 1996; Squires and Measor, 1996, 1997; Ditton, 2000; Williams and Johnstone, 2000; Urban Eye, 2004; Gill and Spriggs, 2005]. Similarly, the majority of citizens do not appear unduly concerned about the civil liberty implications of CCTV [Bennett and Gelsthorpe, 1996:86; Ditton, 2000:700]; over three quarters of respondents believe that CCTV on their streets would make people feel safer and reduce their fear of crime.[*]

If public opinion reflects a broad level of public support, there are, however, some important qualifications to be made. A number of surveys have indicated that a sizable minority, between a quarter and a third, thought that CCTV would erode civil liberties, and up to a third stated they disliked being watched.[†] The findings are also stratified by age and gender, with younger people and males being less supportive.[‡] While the public believe that in general people will feel safer when the cameras are introduced, when people are asked whether it will make them feel personally safer, far fewer think it would.[§] It has also been found that knowledge of the camera watching over them had no effect on respondents' levels of fear of crime, seemingly repudiating the idea that CCTV can be justified as a measure to reduce the fear of crime.[¶] This finding is supported by studies that have attempted explore people's actual behavior, rather than just their attitudes. These show that CCTV has a limited impact in getting people to use their town centers and Main Streets more.[**] As the Home Office 2005 evaluation concluded:

[*] Bennett and Gelsthorpe [1996] found that 73% of their sample believe CCTV to be effective in reducing fear of crime; Squires and Measor [1997] found 90% thought "that introducing CCTV into the town centre would make people feel safer"; and Ditton [2000], that 79% of respondents "thought that CCTV cameras would be effective at making people feel they are less likely to be victims of crime and disorder."

[†] Bennett and Gelsthorpe [1996] found that of the 30% of people who stated they were worried about the civil liberty implications, 36% stated it was because they did not like being watched; and in Ditton's survey [2000], a full third (33%) of respondents stated they "minded" being watched on the streets.

[‡] Williams and Johnstone's study [2000] of two Welsh towns found that whereas 85% of adults welcomed CCTV, between 60% and 70% of male teenagers, male students, and female students believed the introduction to be unnecessary.

[§] Squires and Measor [1997] found that whereas 90% thought CCTV would make people feel safer, only 30% thought it would make *them* feel safer.

[¶] Ditton and others [1999] found that although 79% of people though CCTV would reduce fear of crime before a system was introduced, answers to the postimplementation surveys show that those who were aware of the cameras "were no more likely to say they felt safer or used the streets more often than other city centre users," for "75% of those aware feel safe (as opposed to 77% of the unaware), and 53 % of those who are aware of CCTV worry about being a victim (as opposed to 49% who are unaware)."

[**] Squires and Measor [1997] found very few people, only 2% in the daytime and 3% at night, felt that the system had anything to do with the frequency of their visits to the town center. Similar results were obtained in the London borough of Sutton, a large majority of respondents reporting "no influence of CCTV on their use of the high street" [Mahalingham, 1996:57].

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> On the whole, these findings suggest that there is no connection between worries about being a victim of crime and avoidance behaviour. They also indicate that respondents believed CCTV would have an impact on their avoidance behaviour (encouraging them to visit places they previously avoided), but in practice this rarely occurred. [Gill and Spriggs, 2005:54–55]

Finally, although support for CCTV is generally high, survey respondents consistently place other crime prevention measures, such as increased levels of police patrol or improved street lighting, above CCTV in their list of priorities [Bennett and Gelsthorpe, 1996].

14.4 An Evaluation of CCTV

In Britain, in the early 1990s, the mass expansion of state-funded CCTV occurred prior to any systematic evaluation of its effectiveness in preventing and detecting crime.* Instead, politicians relied on the self-interested claims of practitioners and system promoters. While a number of small-scale evaluations had been conducted during the 1990s, the results of these studies came up with mixed and often contradictory findings.† The first major evaluation, of the effectiveness of CCTV in two Scottish cities and funded by the Scottish

* The absence of evaluation seems not just to be a British malady. As Nieto, Johnston-Dodds, and Simmons noted [2002:13] regarding the United States: "In general, we find that there have been very few studies of the effectiveness of the CCTV surveillance systems. Crime related statistical data are not required for use of federal grant funds, nor is there a requirement that all grantees report incidents of crime occurring where the cameras are located. Despite their increasing use, there is limited evidence that CCTV camera surveillance programs are successful crime-prevention tools." Four years later, the International Association of Chiefs of Police, in their survey of American police forces, reported that "agencies were asked if they had measurement systems to evaluate CCTV's effectiveness in reducing crime. Ninety six percent of respondents do not incorporate measurement systems of any kind. Of the eight agencies using formal measurement systems, three said CCTV had a great effect on crime, four said it was moderate and one said it had a marginal effect on crime" [IACP, 2001:3]. In Australia, the story is similar, as the 2001 ARTD report made clear: "Few council owned CCTV schemes in Australia have been systematically evaluated to date, although some are in the process of doing so … The cities of Sydney and Melbourne schemes have been evaluated but findings are not publicly available" [p. 34]. Two years later Wilson and Sutton [2003:2] reported: "To date only two evaluations of open-street CCTV are publicly available in Australia: one of Fairfield, NSW and one of Devonport. However in both cases insufficient pre-installation data was available to assess the impact of CCTV on offending."

† In their review of 13 of the methodologically reliable studies conducted in the United Kingdom before 2000, Coleman and Norris [2000] concluded, in answer to the question: Does CCTV reduce crime? "The criminological evidence is far from straight-forward: the effects are neither universal nor consistent."

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Office, also produced contradictory findings. As Ditton and Short [1999:212] reported:

> Put at its starkest, after the installation of open-street CCTV in Airdrie, recorded crimes and offences fell to 79% of their previous recorded levels, and detections rose from 50% to 58%. Conversely after the installation of open street CCTV in Glasgow, recorded crimes and offences rose to 109% of their previously recorded levels, and detections fell from 64% to 60%.

Similarly, in their meta-analysis of 22 British and American evaluations that met their minimum requirements of scientific adequacy, Welsh and Farrington [2003:42–43]. have concluded that "CCTV had a significant desirable effect on crime, although the overall reduction in crime was a rather small 4%." While this may be seen as a partial endorsement of CCTV, it is important to note that only half of the studies included showed a positive effect, with the other half showing either negative or no effect. Moreover, CCTV had little or no effect on crime in public transportation and city center settings. The only statistically significant results were to be found in parking facilities.

In 2005, more than 10 years after investing hundreds of millions of pounds in the expansion of CCTV, the government published its Home Office–sponsored national evaluation of CCTV. The evaluation, which took over four years to complete, involved large-scale public surveys and detailed case studies of 14 schemes.

As to the effectiveness of CCTV in reducing crime itself, it concludes that "the CCTV schemes that have been assessed had little overall effect on crime levels. Even where changes have been noted, with the exception of those relating to car parks, very few are larger than could have been due to chance alone and all could in fact represent either a chance variation or confounding factors" [Gill and Spriggs, 2005:43].

As to the effectiveness in reducing fear of crime, "CCTV was found to have played no part in reducing fear of crime; indeed those who were aware of the cameras admitted higher levels of fear of crime than those who were unaware of them" [Gill and Spriggs, 2005:60].

In their final conclusion, the authors state: "The CCTV systems installed in 14 areas mostly failed to reduce crime (with a single exception), mostly failed to allay public fear of crime (with three exceptions) and the vast majority of specific aims set for the various CCTV schemes were not achieved" [Gill and Spriggs, 2005:61].

In the light of these findings, it is difficult not to concur with Welsh and Farrington when they argue that "substantial funding was poured into CCTV schemes on the basis of questionable research … [which] raises serious questions about the use of public resources to prevent crime in Britain" [Welsh and Farrington, 2004:500].

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If CCTV has failed in its stated objectives, how, then, can we account for its continued popularity?

First, CCTV can be seen largely as a symbolic, populist measure designed to send a message to the public that the government was doing something about the crime problem. This was reflected in the language of politicians, who claimed that CCTV was a "friendly eye in the sky" that would "put criminals on the run." Moreover, unlike offender-centered approaches, which take place away from the public gaze in prisons, drug rehabilitation centers, and young-offender institutions, CCTV is highly visible. The cameras are on the streets for all to see, and the public are constantly reminded of their presence by a local media hungry for a "good news story" that can be dramatically visualized through the use of recorded images from the CCTV footage [McCahill and Norris, 2002]. Politicians at both the national and local levels were also eager to be associated with the introduction of new CCTV systems. The symbolic value was compounded in 1998 when local authorities were charged with developing, at the local level, a multiagency response to the problem of crime and disorder (Crime and Disorder Act, 1998). This, for the first time, explicitly recognized that crime reduction involved more that just the police and required a range of local state agencies to address the problem. As Fussey [2004] has argued, CCTV provided a tangible, noncontroversial issue, which these new multiagency partnerships could rally around, giving substance to the idea of multiagency cooperation.

Second, regardless of its limited effectiveness in reducing crime overall, CCTV plays a significant role in the postincident investigation of serious crime; clearly, in a range of high-profile cases involving the killing of children, terrorist attacks, and serial killers, CCTV footage has provided a major investigative tool.

Third, CCTV is far more that just a crime prevention initiative; it also provides the ability to monitor and respond to a range of low-level nuisances and disorders, which are of concern to city authorities and the police.

Fourth, CCTV provides a useful operational tool for the police, who by being able to see an incident can determine the priority and strength of response needed. This is particularly important in such large-scale events as public processions, games and competitions at sporting facilities, and demonstrations, where CCTV enables a central command to keep an overview of unfolding events.

Finally, if incidents are captured on tape, CCTV provides a strong evidence base through which to secure a conviction, often achieved without the necessity of a trial, since the suspect pleads guilty on being confronted with the footage.

14.5 Capabilities of CCTV

In the United Kingdom, the development of CCTV over the past decade has generally produced a patchwork of systems, operating in individual districts.

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Not only have there been myriad private systems in supermarkets and banks and the like; even in the public sector, there have been separate systems watching over particular high streets, town centers, parking facilities, college campuses, transportation facilities, and so on. In short, the surveillance infrastructure has been fragmented, and the costs associated with monitoring individual systems high.*

Increasingly, the solution has been to centralize the control room functions, considerably reducing the monitoring cost of each individual system but simultaneously reducing their connections to local communities.† In major cities, this has permitted the creation of state-of-the-art, ergonomically designed control rooms and has, for the practice's general professionalization,‡ succeeded in creating control rooms that, according to one journalist, increasingly resemble the "Bridge of the Starship Enterprise."§

In Sheffield, for example, the Sheffield Wide Image Switching System (SWISS), launched in 2003, has a control room staffed 24 hours a day and can now control some 150 publicly funded cameras covering the city center streets. However, SWISS has also integrated other public- and privately owned camera systems, including those of an out-of-town shopping mall, tram system, and university [Sheffield City Council, 2003]. In the most recent development, digital technology is allowing still images from any of the SWISS cameras to be broadcast to police officers on the street by means of a hand-held computer [Security Installer, 2004b].

In general, most large city center systems comprise from 100 to 500 cameras. They have a mixture of static and fully functional cameras, enabling

* In 1996, it was estimated that the average annual running costs for the 400 or so local authority schemes to be around £70,000 [Norris, Moran, and Armstrong, 1998]. By 2000, with the effects of minimum-wage legislation, these costs had considerably increased. For instance, by 2000 Swale Borough Council's 47 camera systems had annual operating costs of £300,000, and a number of local authorities had operating budgets of more than £500,000 [Wade, 2001:28].

† E.g., in 2000 the West Yorkshire Passenger Transport Executive installed 118 camera systems to surveille the main bus terminals covering the Bradford, Calderdale, Kirkless, Leeds, and Wakefield council districts. The central control room in Leeds is manned 24≈hours and covers bus stations located in an area spanning 324 square kilometers [Drury, 2001:50–51]. Similarly in Manchester, in the runup to the Commonwealth Games in 2002, a partnerships between the Manchester City Council and National Car Parks created a centralized control room to monitor the 400 cameras in 20 privately owned parking facilities and the 100 city center cameras [Alalouff, 2002].

‡ Here CCTV operators are likely to be relatively highly trained and paid, on permanent contracts with job security, and subject to clear lines of supervision and management oversight.

§ See Alaouff [2002]. Although there are an increasing number of highly "professionalized" control rooms, this is in contrast to many older systems, which have been poorly designed, ad hoc creations, often run by temporary, poorly paid staff working long hours, and having high turnover, limited or nonexistence training, and poor management oversight. [For descriptions, see Norris and Armstrong, 1999; McCahill, 2002; Norris and McCahill, 2006.]

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a person to be tracked through an entire central city area. The images from all the cameras are recorded, but often in time-lapse mode. Yet key cameras, and any that the operators specifically designate, record in real time and at high definition. Control rooms are staffed 24 hours a day, as noted, with up to six operators watching the screens at any time. They have direct communication links to police command and control centers, where live footage can be relayed and viewed and where decisions are taken as to appropriate deployment. Many systems are also integrated into "shop watch schemes," providing a radio link with private security guards and store detectives.

14.5.1 Digitization

Traditional CCTV systems have been analogue, tape-based systems. Since 2001, when guidelines on common digital recording standards for systems interfacing with the criminal justice agencies were published, this has been the fastest-growing sector of the CCTV equipment market [Constant, 2001:25]. Increasingly, as older systems are updated, they are incorporating digital recording and storage facilitates by bolting them on to their existing analogue systems, and many new system are entirely digital [Petrook, 2005].

Digitization is important for a number of reasons. First, it enables the images captured from cameras to be transferred to a computer. Potentially, this makes the storage, retrieval, and transfer of images easier, since they are recorded on the computer's hard drive or DVD. Second, it allows for the analysis of those images by "intelligent" algorithms to extract information from the image and to easily integrate both the video signal and the information contained in it with other computer applications, such as GIS systems. Third, digitization allows for the distribution of the images over the Internet, using the Internet Protocol (IP); this appears to be the next evolutionary step in the full migration from analogue to digital systems. Video surveillance over the Internet can utilize both private and public networks, allowing access to real-time video wherever there is a network connection. In effect, this means CCTV images can be distributed, almost instantaneously, to anywhere in the world, and to a variety of devices, such as mobile phones or handheld computers [Petrook, 2005].

14.5.2 Face and Vehicle Recognition

Although there have been a number of high-profile media stories about the installation of facial recognition software in Britain and the United States [*The Guardian*, 2002][*] —after September 11 and some very ambitious performance

[*] E.g., *The Guardian*, June 13, 2002; for a review of U.S. installations, see EPIC's Facial Recognition Web page, http://www.epic.org/privacy/facerecognition/.

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claims about the capabilities of such systems[*]— the reality remains that facial recognition technology has not advanced to a point where faces can be routinely and accurately identified as people move though a city street.[†]

However, in more limited ways, facial recognition has advanced and is having an impact on security, particularly for access control, where there are compliant subjects who can be photographed in standard lighting conditions, to provide a standardized photograph, updated every few months for inclusion in a database. With the digitization of the British passport, containing a standard photograph, the introduction of photo-driving licenses, and the new National Identity Card, there will soon be a national collection of digital photographs that will be used to create the National Police Database of Facial Images (FIND). This will comprise still and video facial images, as well as details of marks, scars, and tattoos, and be linked to criminals' records on the Police National Computer. The head of the Police Information Technology Organisation (PITO) biometrics group, Geoff Whitaker, recently stated that although PITO was "in the process of assessing the ability of current face recognition technology to meet the requirements of the police service for automated identification … [and] it seems unlikely that the accuracy of automated facial recognition technology will ever match that of fingerprints, it is nevertheless a powerful tool" [Ranger, 2006].

If the face has remained an elusive target for those seeking the holy grail of identification, the automobile has provided a far more amenable route. And the impact of digitization is best understood in the context of traffic monitoring. Traditional traffic management systems have relied on sensor technology, with video pictures being used merely to provide visual confirmation of events. With digital video detection systems, the video picture itself becomes the information source. If this information can be automatically extracted through computer vision software technologies, it represents a significant multifunctional advance on the information generated from traffic sensors. As Abernethy has noted:

> As every traffic engineer knows, the surveillance video image provides information on approximate speed, congestion, road conditions, debris in the road, status of road construction, weather, general visibility and impact on road conditions, verification of DMS messages, surveillance security for road side jurisdictional equipment and perhaps most important—verification of an incident and assessment of its seriousness. Because CCTV provides a significant amount of information, it is in demand with just about every stakeholder. [Abernethy, 2001:26]

[*] See Zuriek and Hindle [2004] for a review of biometric security claims after 9/11.

[†] See Norris, Moran, and Armstrong [1998] and Norris [2003] for a review of the difficulties in recognizing a face in a crowd.

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Moreover, once images are digitized and capable of algorithmic processing, the potential of linkages with existing databases is dramatically enhanced. One of the first such systems, the so-called Ring of Steel, was deployed in the City of London after the 1996 Bishopgate terrorist bombing. However, rather than "steel," the system consisted of cameras situated at each of the entry points into the city. Every vehicle that entered the square mile of the City of London had its license plate read by the cameras. This information was then automatically checked, in real time, against a number of databases that contained details of the vehicles of suspected terrorists. If a match was recorded, an alarm was sounded and officers could be deployed to investigate the suspicious vehicle further [Norris and Armstrong, 1999:214–15].

In 2001, a similar system was introduced in Northampton, not as part of an antiterrorist measure, but to evaluate the technology's effectiveness in contributing to the government's Crime Reduction Programme [*CCTV Today*, 2001]. The perceived success of the Ring of Steel system and the ability to use the license plate to both identify and track individuals has now become a central plank of policing strategy. In June 2003, the Home Office announced a national pilot of the ANPR plan which

> involved 300 officers operating as part of 50 intercept teams across 23 police forces … in the first nine months 22.8 million vehicle registration marks were read … of which 900,000 (4%) were of immediate interest to the police. Within the resources available, the intercept teams stopped 136,857 vehicles. [PA Consulting, 2004]

These stops led to the arrest of 10,546 people for offenses ranging from burglary to drug-related crimes, and 2,611 persons for driving offenses. In other words, 75% of the arrests were for neither traffic nor driving-related offenses.

In the light of the pilot, in March 2005, the Association of Chief Police Officers (ACPO) published their strategic report on the development of ANPR, titled 'Denying Criminals the Use of the Roads" [ACPO, 2005]. Their vision: to create a national network of license plate readers "utilising police, local authority, Highways Agency, other partner and commercial sector cameras" [ibid.:6]; this will include integrating the existing cameras in town centers and on Main Streets, where they can be made ANPR-compatible [ibid.:18].

The system works as follows:

> The digital image is converted into data, which is processed through the ANPR system. This system is able to cross reference the data against a variety of databases including the Police National Computer (PNC), Local Force Intelligence Systems, and other related databases, for example, DVLA. Once the data has been cross checked against these databases—a process that takes around 1.5 seconds to complete—information about the vehicle, its registered

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> owner and driver appears on a computer where it is evaluated by ANPR officers. If the information supplied via the ANPR system alerts officers to an offence or relevant intelligence on a vehicle, the vehicle will be stopped to allow officers to investigate further.… ANPR systems are able to check up to 3,000 number plates per hour, per lane, even at speeds of up to 100 mph. [Cambridgeshire Constabulary, 2006]

The initial strategy called for each of England's and Wales's 43 police forces to establish at least one Intercept team by 2006, increasing to over 300 by 2008. An Intercept team will typically consist of six officers operating from either cars or on motorcycles. They will be linked to the National ANPR Data Centre, which planned to have an operational capacity to process 35 million ANPR reads every day, increasing to 50 million by 2008. The center will store details of each vehicle's movements for two years.

The significance of ANPR is that it integrates a surveillance device, the camera, with the police national computer and all of its associated databases. Like open street CCTV, it targets all under its gaze but greatly enhances its surveillance capacity as it creates a permanent investigative resource of a vehicle's movements and locations, regardless of the status of the driver. By being able to link a vehicle, and by association its occupants, to a database of named individuals, ANPR ensures that subjects no longer remain anonymous. Moreover, everyone who passes under this digitized surveillance can be classified—as lawbreaker or law abiding, suspected or unsuspected, wanted or not wanted, and so forth. Classification is inscribed in the database.

14.5.3 Behavioral Recognition

Digitized systems not only facilitate identification for as Bogard has argued in *The Simulation of Surveillance* (1996), digitized information is increasingly becoming integrated into simulated models of reality. Rather than just passively watching and recording, these software models seek to extrapolate the future from the present and immediate past; they seek to predict the future. Thus, for example, the UK Traffic Control Centre, which opened in 2003, will receive digitized information from the entire camera network overseeing Britain's roads, and it is said to be developing a predictive computer model that will forecast congestion points [Hook, 2000:10].

Not only traffic behavior is subject to predictive modeling. Researchers at King's College, in London, have developed a software package that automatically monitors crowd flows, congestion rates, and abnormal behavior. One of their algorithms models the behavior of suicidal commuters and uses it to predict if someone is a potential suicide risk and about to throw him- or herself under a train. The software's

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> ability to spot people contemplating suicide stems from the finding made in analysing previous cases, that these individuals behave in a characteristic way. They tend to wait for at least ten minutes on the platform, missing trains, before taking their last few tragic steps. Velastin' s deceptively simple solution is to identify patches of pixels that are not present on the empty platform and which stay unchanged between trains, once travellers alighting at the station have left: "if we know that there is a blob on the screen and remains stationary for more than a few minutes then we raise an alarm." [Graham-Rowe, 1999:25]

At present, there are few algorithms, and these are of limited capability to accurately identify deviant behavior or predict its occurrence. But computer vision scientists are actively trying to develop and perfect such algorithms,* and some have been deployed in operational settings. For instance, the London Underground has been testing an Intelligent Pedestrian Surveillance System that alerts operators to suspect packages, abnormal movements by passengers, and unusual behavior [Drury, 2005:16].

14.6 CCTV, Discrimination, and Social Exclusion

As Norris and Armstrong have shown in their study of the operation of three CCTV control rooms, selection for targeted surveillance is, at the outset, differentiated by the classic sociological variables of age, race, and gender. Nine out of ten target surveillances were on men (93%), four out of ten on teenagers (39%), and three out of ten on black people (32%). Moreover, while displays of "suspicious behavior" played a part in determining who was surveilled, it was not the most important reason. From their study, 36% of people who were subjected to prolonged targeting were surveilled for "no obvious reason." Only one quarter (24%) were targeted because of their behavior, but 34% of people were surveilled merely on the basis of belonging to a particular social or subcultural group. Unwarranted suspicion did not fall equally on all social groups. Two thirds (65%) of teenagers were surveilled for no obvious reason, compared with only one in five (21%) of those aged over 30. Similarly, black people were twice as likely (68%) to be surveilled for no obvious reason than whites (35%), and men were three times (47%) more likely than women (16%). In short, the young, the male, and the black were systematically and disproportionately targeted, not because of their involvement in crime or disorder,

* E.g., the European Commision, under its Information Society Programme, is sponsoring the Face and Gesture Regcognition Working Group, comprising vision scientists from six European countries, "to encourage technology development in the area of face and gesture recognition." In the United States, the Homeland Advanced Project agency is sponsoring Object Video to develop "the next generation capabilities for intelligent video surveillance systems—specifically automated scene understanding" [Drury, 2005:16].

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but for no obvious reason and on the basis of categorical suspicion alone (see Norris and Armstrong [1999] for a full discussion). As Norris and Armstrong concluded: "As this differentiation is not based on objective behavioural and individualised criteria, but merely on being categorised as part of a particular social group, such practices are discriminatory" [1999:150]. Thus, rather that promoting a democratic gaze, the reliance on categorical suspicion intensifies the surveillance of those already marginalized and further increases their chance of official stigmatization.

As von Hirsh and Shearing [2000:77] have noted, exclusion is frequently at the heart of situational crime prevention strategies and is "now being extensively used in privately owned spaces that have public functions, such as shopping malls." Moreover, in the United Kingdom, with the development of the town center management movement in the mid-1990s, city center space was also increasingly subject to new bylaws and prohibitions aimed at eliminating certain behaviors and, ultimately, classes of people from disrupting the proper commercial image of Main Street [Reave, 1998]. These, predominately local measures have been given national substance with the passing of the Crime and Disorder Act 1998 and its introduction of "Anti-Social Behaviour Orders," and so, according to von Hirsch and Shearing, "exclusionary strategies are being extended further, to publicly owned spaces."

In the context of the shopping mall, Wakefield has shown that exclusion can be a dominant strategy of control. In her study of one English mall with an extensive CCTV system, over a five-week period 578 people were excluded, and 65% of these exclusion involved "known offenders" [Wakefield, 2000]. However, as McCahill found in his study of the CCTV system in a North of England mall, it was anonymous groups of teenagers who were most likely to be targeted, deployed against, and ejected; not because of any past or present legal infraction but because they were, in dress and demeanor, seen to be disrupting the commercial image of the mall. Similarly, a study of an Oslo mall found that unkempt appearance, rather than criminal behavior, was most likely to attract the attention of the operatives and result in deployment and ejection [McCahill and Norris, 2002; Lomell, 2004].

14.6.1 The Legal Framework

One of the most important points to note about the growth of CCTV in Britain is that it has occurred in the absence of legal regulation. The European observer might have expected that either data protection legislation or privacy legislation would have impinged on the setting up and operation of CCTV systems, but in Britain this has not been the case. The 1984 Data Protection Act had been introduced to protect against the misuse of personal data in the context of automated processing. As various commentators have noted, though at first sight the Act appeared to be a powerful piece of legislation, it

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was, in fact, minimalist in approach, requiring little more than registration, and contained many loopholes and exemptions.*

Furthermore, because the Data Protection Act was primarily concerned with the automated processing of data held on computer, the provisions of the act did not strictly apply to CCTV systems. Since a manual search by an operator using a fast-forward or rewind function did not constitute automatic processing, as defined in the act, the filming and recording of people's images has generally been considered exempt from the provision of the 1984 act [Ellis, 2000:14]. Thus, unlike many other European countries, where video surveillance was regulated by statute and involved the registration and licensing of surveillance systems, subject to laws as to how footage could be used, in Britain there have been no such requirements.

The lack of specific regulation of CCTV through data protection legislation has been compounded by the lack of a legally enforceable right to privacy. Although the 1972 Younger Report and the 1981 Law Commission had examined the issue of privacy rights, both rejected the creation of a general, legally enforceable right to privacy. In the absence of a general right to privacy in British law prior to the incorporation of the Human Rights Act 1998, those seeking to challenge the right of a local authority or police to photograph them on the grounds of infringement of privacy would have had to do so on the basis of trespassing and nuisance, defamation, breach of confidence, or breach of copyright. According to Sharpe, none of these would have succeeded in relation to a CCTV system operating in public space, and he has gone on to note, "The right to privacy is therefore unlikely to exist in relation to those random public surveillance activities which cause the greatest outcry on the basis that personal liberties are being infringed" [Sharpe, 1989:82].

As the High Court ruled as late as 1997, even where a local council released video footage to the media of a man who had been filmed after attempting to commit suicide, in the absence of a privacy law, the court was unable to hold that the council was wrong in law or acting irrationally, in releasing the film to BBC1's *Crime Beat* and other programs [Gallagher, 2004].†

14.7 Contemporary Regulation of CCTV

The dearth of legislative oversight has, since 1998, been remedied, and in the past few years four major pieces of legislation have brought the operation of

* Bainbridge and Pearce [2000:2]. Maguire has noted: "The drafters of the Act did not view privacy as a fundamental right, but as one that had to be balanced against other interests. Many exemptions are allowed, and there are many ambiguities and loopholes in the wording that can be exploited by companies or agencies wishing to avoid the controls" [1998:232].

† See Gallagher [2004] for a review of the case, the subject of an appeal to the European Court of Human Rights.

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CCTV under statutory control. These include the Human Rights Act (1998), the Data Protection Act (1998), the Regulation of Investigatory Powers Act (2000), and the Private Security Industry Act (2001).

14.7.1 The Human Rights Act of 1998

In October 2000, the European Convention on Human Rights was fully incorporated into British law under the Human Rights Act of 1998. In the context of CCTV, two provisions stand out: Article 6, involving the right to a fair trial; and Article 8, dealing with the right to respect for family and private life. In the context of the right to a fair trial, it has been held that covert CCTV footage in the case of an investigation of drug dealing was relevant, admissible, probative, and fair. In an investigation by an insurance company that involved covert filming of a woman involved in a personal injury claim (to rebuff her assertions that she could no longer perform certain actions such as lifting her child), it was ruled that while material filmed in the claimant's home and her child's nursery could not be shown (as this would breach her privacy rights), 20 minutes of other footage would be proportionate and not prejudicial to a fair trial.*

In the context of Article 8, the right to respect for family and private life, the most important development has been the ruling by the European Court in the case of *Peck v. UK*, where footage of a man filmed after he had attempted to commit suicide was released to the media and broadcast on national television. The court held that although the use of CCTV, in itself, does not constitute a breach of Article 8, the subsequent release of the footage did. This reasserts a key principle of Article 8, "that a person's location is not determinative of the public or private nature of their behaviour and expectations" [Gallagher, 2004:284]. It also reasserts that

> notwithstanding that a person is in a public place, there can be an interference with his Article 8 rights where a record is created of their actions and the record is disseminated with the result that their actions are communicated to a greater number of people than the person could possibly have foreseen. [Gallagher, 2004: 285]

14.7.2 The Regulation of Investigatory Powers Act of 2000

The passing of the Regulation of Investigatory Powers Act (RIPA) was driven largely by the need to provide a statutory framework for the covert investigative surveillance techniques of such state agencies as the police and the security services. Prior to RIPA there was little, if any, legal basis

* See *R v. Wright and McGregor*, June 14, 2001; *Rall v. Hume*, March 19, 2001; and Herbage [2001], for a review of pertinent cases.

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regulating the use of informants, surveillance devices, and covert operations in general. To be compliant with the European Convention, these activities had to be placed on a statutory footing. In particular, this meant that where use of covert CCTV surveillance by the police or such other agencies as local authorities was concerned, they would have to demonstrate proportionality, legality, accountability, and necessity and subsidurarity [Herbage, 2001:20].

14.7.3 The Data Protection Act of 1998

In response to the EU Data Protection Directive of 1998, requiring EU member states to afford basic privacy rights when processing personal data, the 1984 Data Protection Act has been completely revised. The European Directive requires member states to have introduced its provisions into their local law by October 28, 1998. Although the 1998 Datas Protection Act (DPA 98) had received royal assent by that time, it did not, in fact, become law until March 1, 2000. The act also allowed for two transitionary periods that, in effect, meant that for preexisting CCTV systems, they were not required to comply with the act until October 24, 2001. Even so, for the first time, CCTV was brought fully under the scope of the act, and as Holmes and Davenport have noted: "The Act currently applies to all systems irrespective of size or purpose of use. There is no minimum limit to the number of cameras in a system. One camera to one video recorder, or indeed camcorder, if used for crime prevention and detection or the promotion of public safety falls within the scope of the Act, so the owner needs to notify the commissioner" [Holmes and Davenport, 2000].

Furthermore, to conduct public space surveillance, there must now be an explicit legal basis for the operation of a CCTV system. Unless system operators can point to the precise legal basis of operation and subsequent actions regarding the processing of data they have obtained, they will be acting in contravention of the act. In some cases, the legal basis will be found in the Data Protection Act itself, as the Home Office has recently advised:

> Schemes that monitor spaces to which the public have access such as town centres, may be able to rely on paragraph 5 (d) of Schedule 2 of DPA 98 as they are exercising a public function of a nature which is conducted in the public interest. These purposes include the prevention and detection of crime apprehension and prosecuting of offenders or public/employee safety (sec 29 DPA 98). [Home Office, 2002]

In other cases, the legal basis will be found in subsidiary legislation, such as the Crime and Disorder Act of 1994, which gives local authorities the general power to provide CCTV monitoring and recording of events on their property, or section 3 of the Criminal Law Act of 1967, which grants small retailers the right to use CCTV as a reasonable means to prevent crime.

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In July 2000, the Information Commissioner published the CCTV Codes of Practice, which sought to provide detailed advice and guidance as to how eight data protection principles would affect the operation of CCTV Systems. The code contains 62 legally enforceable standards and contains a further 30 points covering good practice. A brief summary of the principles and how they with affect CCTV is given here:

> Personal data shall be processed fairly and lawfully, and shall not be processed unless (a) at least one of the conditions in Schedule 2 is met and (b) in the case of sensitive personal data at least one of the conditions in Schedule 3 is also met. The conditions in Schedules 2 and 3 seek to limit the processing of personal data to those areas that have been deemed as legitimate by the Act. Central to this is the granting of consent by the data subject, particularly if the processing involves sensitive data such as a person's racial origins or political beliefs. However in the case of CCTV systems operating in publicly accessible space, the issue of consent has been substituted by "implied consent." But, for the system to be fair and lawful, people must be still be made aware that they are being monitored by CCTV and this should be through appropriate signage, the only exception being where a system must be covert to fulfil its purpose.
>
> As part of the fair processing requirement, individuals should also be able to ascertain the identity and contact details of the Data Controller responsible for a particular system, and be alerted, again through signage, as to the purpose(s) the system is used for. Processing will be deemed unfair if individuals are deceived or misled as to the purposes for which the data are being processed. Fair processing involves disclosing to the Data Protection Commissioners the identity of the data controller and the stated purposes of the scheme for inclusion in the public register of systems.

1. *Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in a manner incompatible with that purpose.* Thus, for instance, if a CCTV system's stated purpose is the detection and prevent crime, and it filmed local government employees absenting themselves from work to have a quick cigarette break, such data could not be processed and used to discipline the employee.
2. *Personal data shall be adequate, relevant, and not excessive in relation to the purposes for which they are processed.* In the case of CCTV, this requirement means that a system for monitoring the security perimeter of a parking facility should not also be capable of monitoring the back gardens of private residences in the area, since this could be considered both excessive and irrelevant.
3. *Personal data shall be accurate and where necessary, kept up to date.* This requirement means that system managers will be in breach of the Data Protection Act if they fail to keep accurate and up-to-date

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records of various aspects of the data-processing activities of the system, such as a list of those with access to the data.

4. *Personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose(s).* What constitutes necessity will depend on circumstances, but the codes indicate, for instance, that in the case of a nightclub, retention for seven days would be sufficient; presumably, if a fight had occurred it would have been reported within seven days. In the case of a bank that uses the system to monitor an ATM machine, three months might be considered necessary, since three months is the average length of time people take to receive bank statements and query transactions. In general, CCTV systems have opted for a 30-day retention period.
5. *Personal data shall be processed in accordance with the rights of data subjects under this Act.* This is perhaps one of the most far-reaching aspects of the new legislative regime. Data subjects now have the right to a copy of any information held about them that falls under the scope of the DPA. In the case of CCTV, this means they have a right to a permanent copy of that part of the tape in which they feature, and to information about any third parties that have been in receipt of their data. The act sets out the manner that requests for subject-matter access must be dealt with, including time limits, the rights of third parties to be anonymized, and the circumstances in which a request can be refused.
6. *Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.* It is significant that this principle is considered violated if operatives and system managers are not fully conversant with the law and fail to recognize the procedures and safeguards to be followed. In particular, it stipulates that all those involved in the operation of a CCTV system must be fully aware of subject access rights.
7. *Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.*

14.7.4 The Private Security Industry Act of 2001

From March 2006, all public-space surveillance control room operators of surveillance cameras that lend themselves to proactive use in identification and tracking people, or the recorded images of which could be used in investigation, have had to work under a license. The license requires them to undergo a criminal records check and 30 hours of training [*CCTV Today*,

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2005:5]. This may give the impression that CCTV is strongly regulated in the United Kingdom. But three issues must be borne in mind.

First, the regulatory environment has not sought to limit the growth of CCTV, merely to facilitate its operation in a lawful manner. In contrast, in a number of European countries, the key factor that has limited the growth of open street CCTV has been the legal-constitutional environment that has seen CCTV as an exceptional measure requiring special justification. In Germany, for instance, the Constitutional Court has declared that "the knowledge of being under surveillance, why and by whom is crucial for a democratic society and the autonomy of its citizens" [Toepfer, Hempel, and Cameron, 2003:6]. Similarly in Denmark, there is a general legal presumption against the surveillance of public space by private bodies, and explicit regulation governs the use of photography by the police. In Norway, where privacy rights are constitutionally enshrined, there is a strong data protection regime that has explicitly concerned itself with regulating CCTV through a licensing requirement [Wiecek and Rudinow-Saetnan, 2002:11].

Second, The Data Protection Act, although it may provide an adequate framework for governing the operation of CCTV, provides weak regulatory mechanisms for ensuring compliance. The Office of the Information Commissioner has no powers of inspection and few staff. Moreover, the act allows for mass registration of multiple systems, making it impossible for citizens to find from the register any details about a particular system. Even the CCTV User Group, the umbrella organization representing public authority systems, has expressed its concern that

> the Information Commissioner has inadequate investigative staff to ensure compliance with the Act. Only if complaints are made about a specific system will any investigation be carried out. We are also concerned that whilst organisations are required to "notify" her of any CCTV system, this can be within the "bulk notification" of all that organisation's Data Protection obligations and there is therefore no separate record which can identify every CCTV system and who is responsible for operating it. [CCTV User Group, 2001]

Third, and as a consequence of the preceding, the law appears to be routinely breached. For instance, McCahill and Norris' survey in London found 78% of systems failed to comply with the signage requirement of the act [2002].

14.8 Conclusion

By way of conclusion, we reprise what is at stake when we consider, from a sociological perspective, the privacy implications of CCTV surveillance.

There is a tendency in both political rhetoric and judicial reasoning to equate a camera to a pair of eyes and to argue that because it makes

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visible no more than could be witnessed by a police officer on patrol, it raises no particular privacy issues. This notion, however, fails to address five key differences between face-to-face human observation and camera surveillance.

First, as Erving Goffman [1973] has so eloquently described in his book *Behaviour in Public Places*, there are normative rules that govern how, in public, the gaze is deployed. The regulation of the gaze is bound up with maintaining "territories of the self," and the unsolicited gaze, as that of the unsolicited touch, is a violation of the "boundaries of the self." While the law may not fully recognize the right to privacy in public space, it is clear that the rules governing the social order of the streets are finely tuned to our normative expectations of privacy. Put simply, we know it is rude to stare, and when the eyes of strangers meet, except in romantic novels, one of them quickly averts the gaze.

Second, in face-to-face encounters, there is an interactional equality, where those who are subject to an unwanted gaze can use a variety of devices to protect the boundaries of the self; they can avert their eyes, move from the field of visibility, attempt to stare the person down, or even verbally challenge the perpetrator. This is one reason why both the spy and the voyeur provoke such condemnation, since they try to conceal not only the motive behind their gaze but also the fact that they are looking at all. The camera disrupts this equality, since it is not obvious that a person is the object of attention; and whereas the watcher sees the watched, the reverse is not true. Moreover, with a zoom lens, the watcher can invade the boundaries of the self in a way unimaginable with the naked eye, since those subject to the gaze cannot adjust their behavior accordingly or directly challenge the watcher.

Third, the eye of the camera is coupled, not to human memory, but to a recording device, which can, unlike memory, be replayed to a wider audience and potentially broadcast to millions on prime-time television.

Fourth, whereas we can remove ourselves from a person's unwanted gaze by changing our location, with the sheer number of cameras in contemporary Britain, at least, this is simply not possible.

Finally, even when CCTV is monitoring anonymous citizens on the streets, it also transforms our bodies into information. The CCTV operatives do not just focus on overt behavior. When we are observed, the information contained on the surface of our bodies is also observed—our age, our gender, our status (as indicated by our dress), and our demeanor. As studies of the operation of control rooms show, this information is used as the basis of assessment as to whether we are worthy of extended targeting and tracking and, at times, deployment and ejection.

These five points taken together mean that the CCTV gaze creates an asymmetry of power between the watcher and the watched and therefore requires that there be mechanisms in place to compensate for the imbalance. What should those be?

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- Citizens should be made aware that their presence in an area is subject to video surveillance. For then, in the knowledge they are being monitored by cameras, they can consciously decide how to conduct themselves.
- Citizens should have the right to expect that their image will not be divulged to any third parties without their consent, except where this is exceptionally required for the prevention and detection of a specific crime.
- Citizens should have a right to be assured that systems are operating fairly and in accordance with the laws and administrative rules that govern their use. This requires that systems be subject to independent audit and inspection, not just registration. The results of such inspections should be made public.

But the foregoing stipulations merely address the relatively simple issue of a camera, a monitor, an observer, and a recording device. As we have seen, contemporary developments are facilitating the link between an individual and a vehicle to a named record and the ability to automatically monitor scenes for the presence of suspicious or unusual behavior. It is the computer, not the camera, that poses the greatest challenge to privacy.

So, when we talk about CCTV, as the British experience shows, we need to be cognizant that we are referring to a technology that is now enabling each citizen's movements, through their associated vehicles, to be permanently recorded on a police database. Furthermore, it allows the individual to be linked to all the material in a variety of databases held on the Police National Computer; not only their criminal record history but also more general intelligence files.

The task of regulating this new environment is indeed challenging and will need much thought and analysis to determine the appropriate response. It will also require an assessment as to how far existing data protection legislation is able to meet such a challenge.

So this chapter ends with just one, tentative, and, one hopes, thought-provoking proposal:

- Citizens should have a right to know what information is held about them and how it is being used. This right would place a reporting requirement on the part of the authorities to provide to each individual an annual information transaction report. The report would include a copy of all the data the authorities hold and provide details of any processing it has been subject to. This would at least go some way to rectifying the asymmetry of power of the surveillance gaze, particularly where consent to use our personal data has been implied, rather than positively granted.

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Of course, there will be an immediate reaction that you can't give criminals and suspected terrorists access to the data held on them. Well, maybe not, but then we would have to decide, as we should in a democratic community, what personal data, under what circumstances, should not be disclosed to its rightful owners.

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Crime and Social Policy 15

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15.1 Introduction

> Modern criminology is a composite, eclectic, multidisciplinary enterprise. In their research and teaching, criminologists draw upon a variety of other disciplines, most notably sociology, psychology, psychiatry, law, history and anthropology—indeed, one of the major dynamics of modern criminology is the incessant raiding of other disciplines or ideologies for new ideas with which to pursue (and renew) the criminological project. [Garland, 2002:15]

Such observations of the antecedents of, and developments in, criminology demonstrate its eclectic nature as an academic and applied discipline. It is

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interesting, however, that Garland does not mention social policy as one of the disciplines that is related to criminology, despite the fact that his other work [Garland, 1985, 2001] notes close relationships between welfare-oriented and crime-oriented concerns. Relationships between crime and social policy are the focus of this chapter.

This chapter first examines what social policy is. It then goes on to examine relationships between crime and social policy, most notably why criminology needs to engage with social policy issues. Many of the issues raised are then discussed in the two subsequent sections, which examine substantive areas of social policy—income maintenance and housing policy—and their relationships to crime and antisocial behavior. Finally, by drawing on the material presented, the chapter critically engages with the idea that Britain has recently been witnessing a criminalization of social policy.

15.2 What Is Social Policy?

Lewis [2000:4] argues that the "term 'social policy' always contains a certain ambiguity." This is because, first, the term has several meanings. It can, for instance, be used to refer to government policies that have social ends: "policies intended to improve social well-being or the welfare of citizens." However, it can also be used to refer to an academic discipline "concerned with examining welfare policies and their conditions, causes and consequences—in other words their links to wider social processes and relations" [Lewis, 2000:5].

Second, the concern with well-being and welfare in social policy as both an academic discipline and a set of policies raises the question of which policies should be focused on [Lewis, 2000]. Traditionally, social policy (or social administration, as it used to be called) as an academic discipline was concerned with five areas of state activity—education, health, housing, personal social services, and social security—that were most closely associated with the post–World War II Keynes-Beveridge welfare settlement [Beveridge, 1942]. More recently, however, it has also come to encompass arts and cultural policies [Liddiard, 2003] and environmental policy [Cahill, 2002] that can impact the economic, emotional, and social well-being of individuals. In some instances, the expansion of the concerns of social policy have included policies that are substantively concerned with crime [Grover, 2008; Knepper, 2007].

A third reason there is ambiguity in the term social policy is because, as Squires [1990] highlights in the title of his book *Anti-Social Policy*, social policies often have strategic and operational goals that quickly dispel the argument that their main concern is with the well-being or welfare of benefit recipients or service users. This is perhaps most visible in the

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eligibility criteria and discretionary administration that frame access to benefits and services, and that aim to ration scarce resources—for instance, health services, housing, and money—through moral judgments about the character and behavior of individuals or families with particular needs. In brief, histories of British social policy (and also social policies in other jurisdictions) are replete with examples—from the workhouse and labor tests of the Victorian poor laws [Kidd, 1999; Longmate, 1974] to the forced use of the long-term contraceptive Depo-Provera mainly, though not exclusively, by ethnic minority women [Dale and Foster, 1986], to more recent policies concerned with nonemployment among young men, lone mothers, and sick and disabled people [Grover, 2008; Grover and Piggott, 2005]—that are as much, if not more, concerned with the economic, class, and racial efficiency of society as they are with the welfare of individuals. Such observations are important because they introduce contradictions and tensions into social policies that, as we shall see, are often assigned many roles. Examining the interrelationships between crime and social policies provides a means of demonstrating such tensions.

15.3 Why Should Criminologists Be Interested in Social Policy?

15.3.1 Crime and Social Policy Often Impact the Same People

We have to be careful not to overemphasize the connections between offending and social status, for it is clear from self-report studies (although they are often only completed by children and young people) that people from all social groups commit offenses [Anderson et al., 1994; Graham and Bowling, 1995]. Further, studies of white-collar crime [e.g., Braithwaite, 1984; Sutherland, 1961; Nelken, 2002] tell us that crime is not something that only people from lower-status groups do. That said, it is clear that those people who are criminalized by criminal justice institutions and policies are more likely to be from such status groups. The criminal justice system essentially manages and processes poor people or, as Spitzer [1975, cited in Box, 1987:128] described them, "problem populations." Hence, one of the most important connections between crime and social policies is that often they affect the same people. Those involved with the criminal justice system, as the perpetrators of offending and antisocial behavior and as its victims, are also most likely to be the recipients of state benefits and services beyond those, such as education and health, that most people access.

The Social Exclusions Unit's report *Reducing Re-offending by Ex-Prisoners* [2002], for instance, noted that nearly three-quarters of the prison population (72%) were in receipt of state benefits immediately before they entered prison,

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two-thirds (67%) were unemployed in the four weeks before their imprisonment, and 1 in 20 (4.7%) was sleeping rough (i.e., homeless) immediately before entry to prison. These figures were far higher than the prevalence of these phenomena in society at large. So, for instance, 13.7% of the general population were in receipt of state benefits at the time, unemployment was at 5%, and only a miniscule proportion (0.001%) of the population was sleeping rough [ibid.].

The evidence regarding victims of crime is similar, for they are also disproportionately drawn from people with lower income. Analysis of the British Crime Survey [Walker, Kershaw, and Nicholas, 2006:116], for instance, suggests that "generally people living in more deprived areas are more likely to be a victim of crime than those living in less deprived areas." While there is evidence to suggest that better-off people living in deprived areas are more at risk of crime than poorer people [Hope, 2000], this is not the case for repeat or multiple victimization, where there is an "association" between it "and the more economically deprived sectors of society" [Croall, 2007:60, drawing on Hope et al., 2001]. Moreover, levels of victimization among particularly excluded groups, such as the homeless, are especially high. Ballintyne [1999], for example, interviewed 120 rough sleepers, the majority (78%) of whom had been the victim of at least one crime in their latest period of street homelessness. Female rough sleepers were more vulnerable than males; 95% had been the victim of crime, compared to 75% of men. It is perhaps not surprising that street homeless people tended to be the victims of personal, rather than property, crime; 45% of respondents had been the victim of an assault, compared to 3.2% in the general population; and 35% had been victims of wounding, compared to 1% of the general population. This means that street homeless people were, in Ballintyne's study, up to 15 times more likely than the housed population to be the victim of an assault and 35 times more likely to be the victim of wounding. The findings of Ballintyne are echoed in more qualitative work with street homeless people, which shows that they face routine verbal abuse and harassment and that the threat of violence is an everyday experience [e.g., Cassidy, 1999; Wardhaugh, 2000].

It is also the case that crime can be one of the factors that leads its victims to having needs that require welfare-related interventions. Children who are abused require the protection of the state, and the families of those who are neglected require its support; women fleeing abusive relationships will almost certainly require housing and possibly an income also, as might non-dependent children who have to leave their familial home for various reasons [see Cassidy, 1999; Pain and Francis, 2005; Wardhaugh, 2000]. Indeed, housing problems are often the consequence of crime. Pain and Francis [2005], for instance, note that for women, sexual abuse is an important factor in explaining street homelessness, whereas for young men physical abuse is an important factor.

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15.3.2 Crime, Inequality, and Social Policy

A second connection between crime and social policy is closely associated with the foregoing observations and relates to the connections between offending and material circumstances that would, if taken seriously, have important implications for social policy interventions. So, for example, quantitative studies suggest that there are close links between various crimes and the following factors: unemployment [Carmicheal and Ward, 2000; Elliott and Ellingworth, 1998; Hakim, 1982], high levels of wage inequality [Fowles and Merva, 1996; Grogger, 1998; Witt, Clarke, and Fielding, 1999], relative decreases in wages [Machin and Meghir, 2004; Wilkinson, 2004], and tightening of social security benefit entitlements [Machin and Marie, 2006]. Such research, however, is problematic. Research concerning unemployment and crime, for instance, is criticized as being sexist [Naffine and Gale, 1989]; as saying little about the nature of the causal relationships between the two (for instance, whether unemployment causes crime or vice versa); and as being unable to prove that when unemployment and crime rates rise simultaneously, it is unemployed people committing the increasing number of offenses [Farrington et al., 1986].

That said, more qualitative accounts of offending suggest that poor material circumstances do, in fact, play an important role in structuring the offending behavior of men and women [e.g., Carlen, 1988; D. Smith and Stewart, 1997; Stewart and Stewart, 1993]. Although it is difficult to argue that poor material circumstances and their related phenomena are the cause of crime—after all, if they were, there would likely be a greater number of offenses in Britain and better-off people would not commit crimes—it is possible to argue that poor material circumstances are one of the most important contextual factors of offending and antisocial behavior [Grover, 2008]. The implication of this is that if the relatively high rates of crime in Britain are to be addressed, social policy interventions are likely to be crucial, for it is through such interventions, rather than criminal justice interventions, that such phenomena as unemployment, poor and stagnating incomes, and benefit regimes can be managed.

15.3.3 Explaining Connections between Crime and Social Phenomena

While the literature discussed in the previous section suggests that offending and antisocial behavior are framed by poor material circumstances, it is the case that it has little explanatory value. For this, we need to turn to criminological theory. Sociological traditions in criminology point to the antecedents of crime in economic and/or social inequalities [Grover, 2008; Knepper, 2007]. Such arguments can clearly be traced in approaches to

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explaining crimes that are premised on various forms of deprivation. Bonger [1916], for instance, focused on absolute deprivation, arguing that working-class people engaged in criminal activity for material survival. Taylor [1997] argues that such ideas fell out of favor when in the 1930s there was an improvement in economic fortunes but not an equivalent improvement in the incidence of offending. However, Grover [2008] suggests that qualitative accounts of offending demonstrate that absolute notions of deprivation should not be discounted in explaining some offending. Carlen's study [1988] of female offending, for example, demonstrates how some of her respondents offended in order to secure enough money to eat and/or to pay for somewhere to sleep. Such observations are echoed in research with people who have had their social security benefits withdrawn [Knight et al., 2003].

There can, however, be little doubt that relative notions of deprivation are now more important to explanations of offending. Merton's classic analysis [1938] of relationships between social structure and anomie, for instance, argues that crime occurs where there is a disjuncture between a cultural emphasis on material success and opportunities for people to obtain those success goals. Perhaps the best-known recent analysis of relationships between crime and relativities in life chances is that of Jock Young [1999, 2002], in what he calls the "exclusive society" and his linking of relative deprivation to cultural criminology [Young, 2003]. While Merton's and Young's analyses have different comparative reference points—Merton's is a "general goal'"of culturally defined success [Young, 2006:300], whereas Young's is "where individuals or groups subjectively perceive themselves as unfairly disadvantaged over other[s] perceived as having similar attributes and deserving similar rewards" [ibid.:349–50]—in both cases their basis in economic and social inequalities suggests a greater role for social policy in engendering greater levels of equality and a greater sense of fairness if crime is to be addressed.

However, it is not just criminological theory related to notions of deprivation that has implications for social policy. Approaches in the tradition of social disorganization theory [e.g., Shaw and McKay, 1942; Sampson and Groves, 1989], for instance, perhaps suggest a need for locally based approaches to tackling crime, in addition to centrally based policies for tackling inequality. This was demonstrated in Clifford Shaw's establishment in 1932 of the Chicago Area Project "to counteract the forms of social disorganisation and foster relationships important for informal social control" [Knepper, 2007:21], although, as Snodgrass [1976] points out, the Chicago Area Project was not designed to, and could not, address the inequities of capitalist production and its inegalitarian distribution of resources that contextualize offending.

Furthermore, theories informed by notions of social control [cf. Hirschi, 1969] also have implications for social policy. Bonds to society's mores and laws are surely eroded by the poverty, unemployment, and poor housing

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that many people are consigned to in unequal societies. In a study with 66 working-class men who had offended, for instance, Willott and Griffin [1999] found that because the men felt that the state had broken its promises (for example, in terms of managing employment levels) and they were suffering because of it, they should not be expected to conform to its rules.

15.3.4 Penalism and Welfarism: Class Configurations and Economic Concerns

Many of what we recognize as welfare institutions developed from the same configuration of class and economic concerns and pressures as did criminal justice institutions. Garland [2001:45], for instance, argues that the penal welfarism of modern society "addressed itself to problems of individual maladjustment that were heavily concentrated among the poorer sections of the population, and which it attributed to poverty, poor socialization, and social deprivation." In economic terms, the belief was that the post–World War II welfare commitment to a Keynesian economy would itself help to address crime and, as such, everyone would benefit from the actions of the state. Garland [ibid.] argues in such classic terms that the middle classes accepted the need to pay for expanding welfare services because of this potential effect.

However, in late-modern society, Garland argues, the emergence of a "culture of control" was, among other things, the consequence of the reworking of economic and class concerns and interests. The culture of control, Garland suggests, is characterized by an acceptance that crime is part of everyday life and "rehabilitation is viewed as a means of managing risk, not a welfarist end in itself" [2001:176]. Garland argues that the language used by, and the practice of, welfarist and penal institutions was similarly framed in late-modern society: "Like the criminal justice reforms of the last twenty years, current social policies are shaped by the perceived dysfunctions and pathologies of the institutions of welfarism. The solution has become the problem" [ibid.:174]. In this context, Garland [ibid.:197] argues that the class interests of state welfare were reworked, the consequence of which was that "the middle classes have become less inclined to view state welfare as a system that works to their benefit. Instead, it comes to be seen as a costly and inefficient government bureaucracy redistributing the hard-earned income of people in employment to an undeserving mass of idle and feckless recipients." While Garland's thesis is criticized as being too overgeneralized [Zedner, 2002], the idea that changes in late-modern society to attitudes toward state welfare and its recipients is echoed in the work of Young [1999, 2002] in *The Exclusive Society*, in which he argues that in the gaze downward of relative deprivation, the demonization of a structurally constituted "underclass" leads to greater calls for its containment and its authoritarian treatment, which is reflected not only in criminal justice, but also in social, policies.

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15.3.5 Social Policy, Moral Malaise, and Crime

Central to the redefinition of state welfare as burdensome was a discourse suggesting that the provision of state welfare benefits had created in Britain a moral malaise, which is encapsulated in terms such as "benefits culture," "dependency culture," and "something for nothing society." The idea is that the receipt of state benefits and services encourages passivity and self-exclusion, which is seen as the breeding ground for antisocial and offending behavior [Murray, 1990, 1994], or that such benefits and services are so designed and delivered as to discourage a communitarian sense of obligation and duty (see Deacon's analysis [2002] of the implications of communitarian approaches to social policy). Although such approaches to understanding the potential effects of benefits and services have different intellectual and philosophical antecedents, they are linked by the familiar argument that state action provides important behavioral cues that shape, and in the case of communitarian approaches can be used to shape, the actions of recipients.

Though there is little evidence to back up claims about the power of state welfare benefits and services to shape behavior, such arguments provide a powerful discourse in which state welfare is constructed as being not only economically problematic but also morally and socially so. In such arguments, state welfare is held up as all that is wrong in contemporary society; as institutional forms and processes that discourage self-reliance and self-improvement, and a communitarian concern for one's neighbors.

In this and the preceding sections we have explored some ways—there are undoubtedly others—in which crime and social policy are linked. We have seen that there is a combination of arguments and evidence that suggests crime and social policy affect the same people and that such pressures as poor material circumstances, which could be relieved through social policy interventions, often contextualize offending behavior; that crime can, for individuals, create needs that require social policy interventions; and that for some analysts, such interventions contribute to the crime "problem" because of their alleged effects upon character. The following two sections develop some of these arguments by focusing upon two substantive areas of social policy—income maintenance and housing—to demonstrate how they are connected in policy discourse and practice to crime and, in the case of housing, to antisocial behavior. Our concern with these policy areas is at a national level.

15.4 Crime and Income Maintenance Policy

Concerns about relationships between income maintenance policy and crime have been ventilated over centuries in arguments about the alleged

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effects that relieving the financial needs of people have on their character. So, for instance, in his analysis of the introduction of the 1349 Vagrancy Act, Chambliss [1964] argues that the outlawing of the giving of alms to able-bodied poor people (those of "sound mind and body") was driven by concern with their character and behavior, the granting of alms being held to discourage paid employment and to encourage undesirable behaviors, including theft. Such concerns continued through the 1834 Poor Law Commission report, which quoted the clerk of the overseers of St James's Parish, London, as reporting:

> We have in the [work]house many women who are known to be prostitutes; we have also notorious thieves. I recollect, in particular, W. Thomas and J. Selburn, now young men; these men are always supported either by the county or in the parish, except what they get by thieving. I am persuaded that parish poorhouses, as present administered, have the effect of attracting paupers. [Checkland and Checkland, 1974:125]

The 1834 Poor Law report is recognized as being selective in its interpretation of what was occurring in poor relief and the effects that changes in its administration might have [Englander, 1998; Kidd, 1999]. However, its value for our purposes lies in the discursive contrasts it makes between relief regimes that it argued encouraged independence and industry and those that it argued encouraged pauperism and indigence. In the case of St James's, the alleged poor administration of the existing workhouse was argued to be encouraging moral laxity. Hence, pauperism was equated with sexual deviancy and crime. It was only through a reorientation of the administration of the poor law along the lines of Benthamite "less eligibility" that the independence and industry—the moral imperatives of industrial political economy—could be released and moral fecklessness and criminality tackled:

> Whatever impels any class into courses of sustained industry must necessarily diminish crime; and we find that one characteristic of the dispauperized parishes is the comparative absence of crime. In Bingham, before the change of system took place, scarcely a night passed without mischief; and during the two years preceding 1818, seven men of the parish were transported for felonies; now there is scarcely any disorder in the place. In Uley and Southwell parishes crime has similarly ceased.
>
> In almost every instance the contentment of the labourers increased with their industry. [Checkland and Checkland, 1974:351]

Such observations led Grover and Stewart [2002:130] to sum up the arguments of the Poor Law Commission report thusly: "Independent employment ensured the civility of the labouring classes."

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Such discourses regarding the positive effects of paid work compared to the negative effects of nonemployment combined with state dependency continue in contemporary society, with the focus on paid work as being the route to economic and moral inclusion [Levitas, 1996, 1998]. In brief, paid employment is seen as being the panacea for a range of economic and social problems, but one that is easily subverted by the payment of financial support to those who are unfortunate enough to be out of work. In this sense, it is a combination of nonemployment and its relief that is held to result in a range of social problems, of which crime is just one [Grover, 2008]. Hence, it is common to find the argument that crime could be successfully tackled if people could be gotten into paid work. Such arguments are explicitly and implicitly made by commentators from both the left [e.g., Campbell, 1993; Coote, 1994] and right [Dennis and Erdos, 1993; Morgan, 1989; Murray, 1990, 1994] and in some policy documents [e.g., Secretary of State for the Home Department, 1997]. They are also often made in the desistance literature [e.g., Farrall, 2002; Laub and Sampson, 2003; Sampson and Laub, 1993], where paid work, or "good work habits" [Sampson and Laub, 1993:220], is often identified as being a factor that encourages people to desist from offending, although others [Ditton, 1977; Henry, 1978] have demonstrated that "full time employment does not preclude either the opportunities to offend or actual offending" [Farrall and Calverley, 2006: 4].

The idea that addressing crime is inextricably linked to welfare-oriented interventions lives on. The demise of the importance of social explanations is not complete; nor should we, given the various agents and institutions and commentators concerned with crime in contemporary society, expect it to be so. In other words, the focus upon paid work as the solution to a range of economic and social problems remains and helps to explain one of the main ways in which income maintenance policy is connected to criminological issues: it is through such policies that the state effects the "lasting transformation of non-wage-labourers into wage labourers" [Offe, 1984:92]. Offe's observations are linked to the fact that paid work is a social construction, and therefore there are few a priori reasons why individuals would offer themselves for paid work if they did not have a job. In contrast, they might seek their subsistence through other means, such as begging or crime. In this sense, and although it might not be particularly successful, income maintenance policies are concerned with ensuring the commitment of nonemployed people to "legitimate" forms of subsistence, most notably paid work.

However, the emphasis on paid work as being a means of addressing crime is deeply problematic. Downes [1998:3], for instance, argues that

> unemployment is not simply to be contrasted with employment, as if both were standard units of experience. Insecure under-employment is not better than unemployment as a source of livelihood sufficient to support a family

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> and experience an active sense of citizenship. Short spells of unemployment between rewarding jobs [are] better than being stuck with work that offers only poor pay, hours, conditions and prospects.

Downes's observations are particularly important for our purposes, for with the emergence of neoliberalism as a solution to the crisis of Keynesianism [Jessop, 1994; 2002], albeit an unstable and never fully realized one, labor markets have become increasingly fragile, with under- and unemployment becoming an experience for many people. In this sense, and following the logic of Downes's claims, it could be argued that contemporary labor markets, especially for poorer people, are criminogenic, for they hold out little hope of secure employment, but even less hope for well-paid work. This is something that current social policies aimed at getting nonemployed people into work and subsidizing low wages do little to address [Grover, 2005].

However, this is not the only problem with the idea that getting people into paid employment can contribute to addressing crime. Other problems relate to the way in which policies designed to get people into paid work operate. First, in order to ensure that there is a financial incentive for people to take paid work in Britain, social security benefit incomes are low, below the government's headline measure—60% of the median income—of financial poverty. This is particularly so for single people and childless couples, but also for those with dependent children.

Table 15.1 demonstrates the low level of benefit incomes paid to all claimant groups in Britain. The annual benefit income for a single person (aged 25 or over) in 2005/06 was less than £3,000 (and even lower for those under 25) and £8,324 for a lone parent (read: mother) with two dependent children. To put this in context, Table 15.1 compares the levels of income with the average income and the British government's 60%-of-the-median measure of poverty. Column 5 demonstrates that single people and childless couples fare particularly poorly in such comparisons, although couples and single people with dependent children do not do a great deal better, particularly when benefit income is compared with average income. As noted here, benefits are kept low to maintain the financial incentive to take paid work. However, if, as argued here, offending can be explained by reference to absolute and relative definitions of deprivation, and by reference to theories that emphasize the ties that bind people to law-abiding behavior, the figures in Table 15.1 are particularly worrying; they demonstrate just how financially excluded the poorest people are in Britain.

The benefit figures in Table 15.1 assume that recipients receive the full amount of benefit. However, there are deductions made from such benefits to, among other things, reinforce the message that nonemployed people should be in paid work, rather than claiming out-of-work state benefits. To claim and receive the main benefit (Jobseeker's Allowance) for the unemployed,

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Table 15.1 Comparison of Weekly Figures for Measures of Poverty, Mean Income, and Benefit Income (2005/06)

	Poverty measure: 60% of median income[a]	Mean income	Benefit income (IS/JSA[e])	IS/JSA[e] as percentage of poverty measure	IS/JSA as percentage of average income
Single person, no children	£108	£222	£56.20[b]	52.0	25.3
Couple, no dependent children	£186	£382	£88.15[c]	47.4	23.1
Couple with two children	£301	£619	£192.03[c]	63.8	31.0
Single parent, two children	£223	£459	£160.08[d]	71.8	34.9

Source: Child Poverty Action Group, *Welfare benefits and tax credits handbook, 2005/06.* London: Child Poverty Action Group, 2005; Department for Work and Pensions, *Households below average income (HBAI), 1994/95–2005/06.* http://www.dwp.gov.uk/asd/hbai/hbai2006/contents.asp, 2007, Table 2.3.

Notes: a) After housing costs.
b) Assumes the person is aged 25 or over; 18–24-year-olds received a lower weekly amount of £44.50 in 2005/06.
c) Assumes one or both of the couple are aged 18 or over.
d) Assumes the lone parent is aged 18 or over.
e) Income support / Jobseeker's Allowance.

out-of-work people, including lone mothers once their youngest child is 12 years old (reduced to 7 years old, starting in 2010), have to fulfill certain criteria. They must not be deemed to have left their job voluntarily. They must be available for and actively seeking work, and they cannot turn down employment because of offered wages or conditions. If they are found to be wanting in respect of any of these, their already inadequate benefit income can be reduced further, or withdrawn altogether, for periods of up to six months. This means that in order to maintain labor discipline, people can be further impoverished by the operation of the social security system.

Moreover, state policies to get people into paid work may, for some people, not be operating in the manner in which it was thought they would. There is concern, for example, that rather than encouraging people into paid work, government schemes aimed at doing so are, in many cases, having the opposite effect, particularly alienating young people from paid work. Concerns about this possibility were raised by young people in the early years of the New Deal for Young People (NDYP),* a policy expressly mandated to encourage

* The New Deal for Young People is a mandatory scheme for young people (aged 18 to 24) who have been unemployed for at least six months, if they wish to continue to claim Jobseeker's Allowance, the main benefit for unemployed people. Jobseeker's Allowance can be withdrawn at any time during the New Deal for Young People if it is felt the conscript is not fully cooperating.

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job seeking [Bentley et al., 1999]. In their study of young people in Teeside, in northeast England, MacDonald and Marsh [2005:100] found that many young people felt the NDYP was "just another government scheme" that was not worth engaging with because it was unlikely to result in "rewarding employment." The consequence is that about a quarter of participants leave the NDYP for unknown destinations [Grover, 2008]. The evidence that these young people are entering stable forms of paid work is not convincing [Hales and Collins, 1999]. They are, because of the way the NDYP operates, excluding themselves from it and from paid work.

15.4.1 Maintaining Income and Enforcing Punishment

A second way in which income maintenance policy is connected to crime policy is its use as a mechanism for enforcing the punishment of offending behavior. This section discusses two such mechanisms: the deduction of fines from social security benefits and the withdrawal of benefits from those deemed not to have fulfilled the conditions of their community punishments.

15.4.1.1 Deducting Fines from Social Security Benefits

The 1991 Criminal Justice Act made it possible for magistrates to apply to have a set amount deducted from an individual's Income Support (the main means-tested benefit in Britain) should that person, no matter how poor, default on fines. The idea behind this was to bolster fines as a punishment and was consistent with the just-desserts principles of the 1991 act [Easton and Piper, 2005]. In contributing to a process described as "punitive bifurcation" [Cavadino and Dignan, 2002], deducting fines from social security benefits was aimed at convincing sentencers that noncustodial sentences were not a soft option and that fines were a credible punishment for people on low incomes. Sentencers were thought to need convincing because there was concern that "through the early eighties the problems of enforcement were increasingly leading courts to switch to other sentences for those on low incomes" [Moxon, Sutton, and Hedderman, 1990:1].

The 1991 Criminal Justice Act attempted to reverse this decline in the use of fines, first, by ensuring that they were related to the income (what was called the "unit fine") and, second, by increasing the chances of lower-income people being able to pay them. Through these developments it was hoped that sentencers would be more willing to fine low-income people and that it would help ensure that such people were given sentences commensurate with their offense, either initially or if they defaulted on the fine payment. The unit fine was a short-lived measure, abandoned in the midst of popular and political concern at the cost of fines better-off people had to pay under the system [Cavadino and Dignan, 2002]. However, the power to deduct fines from social security benefits survives, despite the fact that it is a policy that

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erodes the control that benefit recipients have over their incomes [Grover, 2008]. This was recognized at the time of its introduction [Moxon, Sutton, and Hedderman, 1990], but a desire for what was held up as a proportionate and cost-effective punishment took priority over concerns about the control poor people had over their incomes.

While in opposition Labour opposed the deduction of fines from benefit income, arguing that it was a policy that reproduced the material conditions that contextualize offending [see comments of Roy Hattersley, MP, then–shadow home secretary, House of Commons Debates, 1990, col. 192]. The present author has argued [Grover, 2008], however, that such concerns were dismissed both because the Conservative government located offending in a discourse of moral failure and because that government had few problems with the fact that such deductions would push people on a low income further into poverty.

However, in government Labour substantially increased (by 80%) the amount that could be deducted from benefit income in order to repay fines. This was a recommendation in the Carter Review [Carter, 2003] of "correctional services" that was, like the 1991 Criminal Justice Act, concerned with reestablishing fines as credible sentences. For Labour, the increase in the size of payment from benefit income—an increase that by 2007 represented 9% of the average weekly payment of Jobseeker's Allowance[*]—is a reflection of its brand of communitarianism, which expects individuals to act in a morally responsible manner, no matter what their material circumstances [Grover, 2008]. This was reflected in "Benefits Minister" Chris Pond's comments when the increase in fine deductions from benefits was introduced: "The right to state benefits must be matched by a responsibility to the society which pays for them" [Criminal Justice System, 2004:2]; if people want to receive state benefits, then they must demonstrate responsibility in all of their behavior, including engaging with punishments for offending.

15.4.1.2 Community Punishments and Social Security Policy

The 2000 Child Support, Pensions and Social Security Act permits certain benefits, including Income Support and Jobseeker's Allowance, to be withdrawn (or reduced if claimants have dependents) for a period of four weeks from people who have breached their community sentences. In policy terms, McKeever [2004] traces the 2000 act to concerns about the proportion of people not completing their community punishments and, because of this, to a concern that the judiciary and public were losing confidence in community-based sentences as punishment. In political terms, the sanctioning of benefit recipients in this way was another extension of Labour's rights

[*] Calculated from data obtained from the Department for Work and Pensions under the Freedom of Information Act, and using the Department for Work and Pensions' Tabulation Tool [http://83.244.183.180/100pc/tabtool.html].

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and responsibilities agenda. Angela Eagle, MP (then–parliamentary undersecretary of state at the Department of Social Security [Standing Committee F, 2000, cols. 617–18]), for example, argued in the committee stage of the Child Support, Social Security and Pensions Bill:

> This [the withdrawal of benefits for those breaching community punishments] is about rights and responsibilities and the Government's new contract for welfare. We do not believe that the receipt of benefits should be unconditional. We do not have a problem saying that the receipt of benefits is a contract between the individual and the state, and that benefits should not be seen as being available unconditionally, regardless of the individual's behaviour.

According to Eagle, the introduction of the Child Support, Social Security and Pensions Bill was concerned, like the increase in fine deduction from benefits, with balancing rights and responsibilities. In this sense, it was part of a developing armory in the contractual governance of behavior (discussed in the following section), for it was a technique to be employed to modify the behavior of poor people in an area of their lives that was not directly linked to their benefit receipt.

The withdrawal of benefits for noncompliance with community sentences was initially introduced as a pilot in four Probation Service areas and then evaluated by researchers commissioned by the Department for Work and Pensions [Knight et al., 2003]. If the aim was to encourage people to comply with their community sentences, the evaluation of the pilot schemes was disappointing because in these areas, the fall in the rate of noncompliance attributable to the scheme was just 1.8%. This low rate of success was because benefit withdrawal was not felt by offenders involved in the evaluation to be a major influence on their behavior, which was, in contrast, related to a number of administrative issues (the potential to withdraw benefits was not widely known), to the general attitude of participants to compliance, and to a range of other factors, including "unstructured or chaotic lives, problematic drug and alcohol use and confrontational attitudes to probation" [ibid.:3]. In many ways, these findings reflected what was already known about how compliance with community sentences is structured through a complex set of economic, social, and personal factors [McKeever, 2004].

Concern about the financial impact of the measure was raised by the National Association of Probation Officers (NAPO) before the pilots began. NAPO spokesman Harry Fletcher was reported as saying: "This is a bizarre sanction. If benefits are taken away, the only alternative source of income will be begging or stealing. This will increase crime" [*The Independent*, April 2, 2001]. The concerns of NAPO were reflected in the findings from the pilot areas that noted, "For some offenders, the main way they reported supporting themselves during the sanction period was through offending" [Knight

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et al., 2003:57]. As one respondent told Knight and others [ibid.:58], "I just thought 'f*** [sic] it, I'm going back to burgling.' I'd stopped, I hadn't done one for ages."

15.5 Housing Policy and Antisocial Behavior

> The purpose of council housing and its predecessors had always been as much about changing the behavior of the poor and shaping their conduct toward middle-class defined norms of acceptability as it was about the provision of affordable and quality housing. [Flint, 2006:21, drawing upon Ravetz, 2001]

Connections between character, behavior, and social housing are not new [Haworth and Manzi, 1999]. Flint [2006], however, argues that there is fluidity in approaches to the governance of behavior through housing. Reflecting this, Flint argues [2006:24] that Britain is "witnessing a reconfiguration and evolution of the governance of conduct, rather than a revolution of new approaches." This reconfiguration of the governance of conduct through housing, Flint [ibid.:24] suggests, involves three interrelated elements: a mixed economy of antisocial behavior management, community and neighborhood governance, and contractual governance.

The mixed economy of the governance of antisocial behavior reflects a plurality in the policing of behavior, policing that involves various state agencies, including social landlords. Community and neighborhood governance is framed by Labour's "identification of community as both the location and process of governance" and a "promotion of communitariainism with its emphasis on localised collective action and mutual rights and responsibilities" [Flint, 2006.]. In this context, Flint argues that housing is identified as being a key element in neighborhood decline and, therefore, crucial to its renewal. He also defines housing management as an essential part of behavior management, including the tackling of crime and antisocial behavior. Or, as Cowan [1999, cited in Cobb, 2006:242] more directly puts it, housing "and its management has become a crucial part of the crime control industry; housing departments have become intermediaries in the new criminal justice system."

Flint borrows the concept of contractual governance from the work of Crawford [2003] and uses it to refer to the way in which contracts between, for example, tenants and housing providers "confer active rather than passive responsibilities on subjects" [Flint, 2006:31]. Deacon [2004:916, drawing from White, 2003] notes how contractualist approaches to conditionality in the provision of welfare benefits and services justify it on the grounds that those people subjected to sanctions are "free-riders" and that to not "prevent such free riding would undermine public support for the taxation necessary

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to sustain as civic minimum." In other words, without the enforcement of responsibilities among service users and/or benefit recipients, support for the welfare state would be further undermined, a point that is often made by government ministers. So, for instance, in arguing for sanctions to be applied to Housing Benefit (discussed later), then–Secretary of State for Work and Pensions John Hutton, MP, argued that unless a "clear signal" was "sent to those evicted for anti-social behaviour that they are at the end of the line and cannot simply expect to move to another property and continue their bad behaviour at the expense of decent hard-working families," public confidence in the welfare system would be undermined [House of Commons Debates, 2006, col. 627].

Flint's approach to understanding relationships between housing and the governance of behavior is useful because while demonstrating the historical continuities with concern with working-class people and communities, it also demonstrates that the techniques of the governance of such people and communities are historically specific. In this section we focus on the use of housing tenancies and Housing Benefit as techniques of the governance of behavior in contemporary society.

15.5.1 Tenancies and Antisocial Behavior

Echoing Flint's arguments, Card [2006] demonstrates how in different historical periods the means of demarcating the deserving from the undeserving, and the responsible from the irresponsible, through housing policy has taken different forms. In times of scarcity, for instance, she argues that those deemed undesirable or undeserving were excluded from social housing altogether [ibid.]. In more recent times, although such people may not be refused such housing, they are "often placed in the worst and most unpopular housing" [ibid.:45].

It is in this historical context, with concerns about the behavior and character of working-class people that the 1996 Housing Act introduced a "formidable range of action against recalcitrant tenants" [Burney, 2002:479]. The 1996 act made it easier for landlords to repossess tenancies by extending the nuisance grounds for their repossession. It also introduced measures that allowed local authorities to secure injunctions against nontenants, where the individuals had committed or threatened violence, a measure that was later extended to nonviolent acts [Nixon and Hunter, 2004]. For our purposes, however, the most important aspect of the 1996 Housing Act was its introduction of probationary tenancies (also known as *introductory tenancies*). A probationary tenancy means that for the first year, tenants must prove that they are "deserving" of social housing by not acting in a manner that could be interpreted as antisocial. The Department for the Environment [1995, cited in Haworth and Manzi, 1999:161] argued that such tenancies

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would be "converted automatically into a secure tenancy on its satisfactory completion," thereby giving "a clear signal to new tenants that anti-social behaviour was unacceptable and could result in the loss of their home." The Department of the Environment's arguments were structured through a utilitarian approach that posited that social housing—because it is a valuable commodity—could be used as leverage to encourage tenants to behave in a manner deemed to be pro-social.

For those who have secure tenancies but who (or their dependents and/or their visitors) then engage in behavior deemed antisocial, the 2003 Anti-Social Behaviour Act introduced legislation enabling registered social landlords to apply for a Demotion Order that allows them to demote secure tenancies to probationary tenancies for a period of 12 months [Flint and Nixon, 2006]. What this essentially does is to make eviction easier if tenants whose tenancies have been demoted do not change their behavior. Hunter [2006] argues that the Demotion Order can be interpreted in different ways; as a "lesser form of disciplining" compared to repossession, or as a means of disciplining tenants in cases where landlords are not confident in securing repossession [Flint and Nixon, 2006:142]. However, given that only 30% of registered social landlords have used such powers (up to August 2006) and the same proportion consider "them to be not very effective" [Department for Communities and Local Government, 2006, para. 13], it is unclear if social landlords view the Demotion Order as either of these.

In contrast, eviction is used more readily. Table 15.2 shows the use of eviction for antisocial behavior in 2001/02 and 2002/03 and compares the data to the use of eviction more generally. There are two main observations to note from Table 15.2. First, it demonstrates that all actions (Notices

Table 15.2 Evictions by Registered Social Landlords, 2001/02–2002/03

	Notices seeking possession (NOSPs)	Cases entering court	Eviction	Eviction as a percentage of NOSPs	Eviction as a percentage of court cases
Antisocial Behavior					
2001/02	7514	2433	1130	15.0	46.4
2002/03	9371	2728	1633	17.4	59.9
Change (%)	1857 (24.7)	295 (12.1)	503 (44.5)	(16.0)	(29.1)
Overall					
2001/02	569000	158000	25000	4.4	15.8
2002/03	548000	155000	26000	4.7	16.8
Change (%)	–21,000 (–3.7)	–3,000 (–1.9)	1000 (4.0)	(6.8)	(6.3)

Source: Extrapolated from Pawson, H., et al., *The use of possession actions and evictions by social landlords*. Wetherby, UK: Office of the Deputy Prime Minister, 2005, Table 3.3, 40.

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Seeking Possessions [NOSPs], court proceedings, and evictions) increased for antisocial behavior between 2001/02 and 2002/03. This is particularly so for NOSPs, which increased by a quarter (24.7%, or 1,857 notices), and eviction, which increased by nearly half (44.5%, or 503 notices). These increases cause concern because the overall figures show a fall of 3.7% for NOSPs and a far lower increase (1.6%) for overall evictions. In fact, antisocial behavior accounted for half of the increase in evictions between 2001/02 and 2002/03, despite such evictions accounting for only 1 in 16 cases by 2002/03. While data for later years are required to confirm the upward trend in the use of legal action against tenants for antisocial behavior, the figures in Table 15.2 do suggest an increasing use of eviction for tenants deemed antisocial, at a time when such action against tenants more generally is falling, or increasing at a far lower rate.

The second trend of note in Table 15.2 is the difference between the use of evictions as a proportion of NOSPs and court proceedings. In this case, Table 15.2 demonstrates that evictions are a far higher proportion of NOSPS and court proceedings (17.4% and 59.9%, respectively, in 2002/03) for antisocial behavior compared to evictions in general, where the proportions were 4.7% and 16.8%, respectively. This observation is both encouraging and worrying. It is encouraging because it suggests that people are not threatened with eviction as a mechanism to change their behavior as routinely as they are in cases of rent arrears. However, the figures are disquieting because by 2002/03, over 1,600 tenants per year were being evicted because of allegations about their, their dependents', or their visitors' behavior. The number and proportion of evictions for antisocial behavior are likely to have increased by now. Given that following the "Homelessness Act of 2002, the new code of guidance on homelessness allows local authorities to exclude tenants for 'unacceptable behaviour'" [Pawson et al., 2005:20], tenants and dependents evicted because of antisocial behavior do not have to be rehoused by local authorities. They face insecurity in their housing arrangements at times when, it can be argued, they need greater security.

An equally worrying aspect of eviction for antisocial behavior is the evidence that suggests people with supported housing needs (e.g., those with illicit drug and/or alcohol dependencies) are more likely to be evicted than those with general housing needs. Pawson et al. [2007] found that in 2005/06, 7.1% of people with general housing needs had been evicted from Housing Association tenancies because of allegations of antisocial behavior. The proportion for those with supported housing needs was nearly six times this figure at 40%. Pawson and others [2005:20] suggests that three factors account for the high rate of eviction for antisocial behavior among people with supported housing needs: such tenants "are members of groups at high risk of committing ASB [antisocial behavior]"; "the typically limited impact of alternative measures (e.g., mediation, injunctions) where

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vulnerable tenants are involved," and the fact that supported tenants tend to live in insecure tenancies in the first place [ibid.:16]. However, it also demonstrates a worrying trend in the disregard of the support needs such tenants may require. Rendering such tenants homeless is unlikely to improve the conditions for which they were allocated supported housing in the first place; oft-times, it is liable to exacerbate the conditions, since such tenants are separated from the welfare services they require for their additional needs.

15.5.2 Withdrawal of Housing Benefit

Powers to evict people, though, were not deemed adequate to tackle antisocial behavior through housing policy; hence, for several years the British government sought the power to withdraw Housing Benefit, a means-tested benefit claimed by over 4 million low-income people to cover all or part of their rent payments [http://www.dwp.gov.uk/asd/asd1/hb_ctb/hb_ctb_may07.xls]. The Green Paper on housing, *Quality and Choice: A Decent Home for All* [Department for the Environment, Transport and Regions, 2000: para. 5.46], first raised the possibility that the law governing the payment of Housing Benefit "could be adapted to encourage both tenants and landlords to behave responsibly." In the case of tenants, while the Green Paper [ibid.: para. 5.47] noted that it would need to be ensured that the "innocent families of unruly tenants did not suffer," it suggested that local authorities "could be given the powers to reduce HB for unruly tenants as an alternative to, or as part of the process of pursuing, an Anti-Social Behaviour Order."

It took the government several attempts to introduce legislation that was, thankfully, less draconian than that which it had first sought. First, through support expressed for former Minister for Welfare Reform Frank Field's Private Member's Bill in 2002, the government sought to withhold the Housing Benefit from those deemed to be acting antisocially, in a move that Field argued was driven by a concern with the quality of life of poorer people, though in reality it was populist and concerned with reproducing the long-standing distinction between respectable and irresponsible poor people through housing-related policy. The government's position, however, was inconsistent, for while it supported Field's proposals, it was unable to secure enough time to ensure its safe passage through Parliament [Grover, 2008].

It was then announced in the White Paper *Respect and Responsibilities: Taking a Stand against Anti-social Behaviour* [Secretary of State for the Home Department, 2003: para. 4.48] that there would be a consultation on giving "local authorities an enabling power to withhold payments of HB to individual tenants where they believe this is the most effective way of tackling anti-social behaviour." The aim of the proposed sanction was twofold: to act as a deterrent to antisocial behavior and, suggesting little faith in this role, to also be a means of penalizing people for such behavior [ibid.: para. 15].

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The majority of the responses to the consultation were negative, with 75% of respondents being against the proposals [Department for Work and Pensions, 2004]. While many of the respondents supported the need to deal effectively with antisocial behavior, there were objections related to the principle of punishing poor people by making them even poorer and/or homeless by withdrawing HB, which, for some respondents, would be inherently discriminatory, by requiring "two unacceptable **preconditions** for the subject's behaviour to be sanctionable: a **low income** and occupation of **rented** accommodation" [Chartered Institute of Housing, 2003:3, emphasis in the original; see also Lister, 2004]. As the Charted Institute of Housing correctly pointed out, the proposals could be used to sanction "a tenant for anti-social behaviour if they live near the poverty line [but] not … a tenant for equal or worse behaviour solely on the grounds that they are too wealthy" [ibid.:3]. The withdrawal of Housing Benefit was (and is) a sanction that only the poorest families in Britain face, and they do so because they are poor. Other respondents to the consultation argued that such a sanction would not deal with the causes of antisocial behavior and would merely exacerbate the material circumstances that frame such behavior [e.g., Child Poverty Action Group, 2003]; still others suggested that such proposals would be counterproductive in the government's desire to tackle social exclusion [Department for Work and Pensions, 2004]. Because of these various objections, the proposals were dropped.

However, two years later—third time lucky for the British government—a diluted version of earlier attempts to sanction Housing Benefit was introduced. This allowed local authorities (initially in pilot areas) to "sanction housing benefit where a person has been evicted for anti-social behaviour and refuses to address their behaviour using the support and help offered to them" [Department for Work and Pensions, 2006a:1]. The proposals were concerned with the potential displacement of antisocial behavior, for its aim was to stop people evicted because of antisocial behavior from moving to a new address without having engaged with "support" aimed at challenging and addressing their behavior. The justification of this policy is a good example of what Goldson and Jamieson [2002:88] describe as the "double speak" of recent Labour governments, where "punitive authoritarianism [is shrouded] under the cloak of benign-welfarism." The emphasis upon "supporting" and "helping" people address their and/or their dependents' behavior is buttressed by authoritarian interventions that decontextualize antisocial behavior from its material circumstances. In addition, it is not clear what will happen to those people who, for whatever reason, do not accept the "support" and "help" on offer and, therefore, have their Housing Benefit withdrawn. They, too, are likely to become homeless. The government [Department for Work and Pensions, 2006b], for instance, estimates that as a consequence of the scheme, 1,500 tenants will be evicted as a result of

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their inability to pay their rent, a situation in which it is unlikely people will improve their behavior.

Evicting people because of behavior deemed antisocial is also problematic because evidence suggests that it is something that is gendered. Scourfield and Drakeford [2002] argue that Labour is pessimistic about the role of women in the private sphere with regard to, among other things, their alleged inadequacy in raising their children. Scourfield and Drakeford note [ibid.:627]: "While governments may talk of 'parents,' the impact of policies that impose home-school agreements, fine the parents of truants or require the parents of children appearing before the courts to attend parenting classes falls quite disproportionately upon mothers, not fathers."

In our case, this observation is important because it is women who face the policies discussed in this section; for it is they, as lone mothers, who are often punished by the withdrawal of welfare services following allegations of antisocial behavior. Hunter and Nixon [2001], for example, argue that in institutional and legal discourse, constructions of neighborhood nuisance conjoin with the behavioral "underclass" thesis [Murray, 1990, 1994] to help explain why lone mothers appear more often than would be expected in cases of the repossession of social housing as a result of behavior deemed problematic. In such cases, Hunter and Nixon [2001] demonstrate how through discursive concerns with parenting and partnering, lone mothers are held responsible for the antisocial behavior of their male children and partners. They note, for example, how the language used by judges in appeal proceedings concerning repossession "reflects a view of single parents, which suggests that in the absence of a husband, they are 'inadequate parents'" [ibid.:404]. This is also reflected in the alleged parenting skills of lone mothers, which is in many cases extended to their (in)ability to control their partners' behavior, for which they are also held to be responsible. In brief, programs that use essentially welfare-orientated policies to tackle offending and antisocial behavior have particularly punitive gender implications. In this sense, rather than attempting to explain why those who are actually engaged in the antisocial behavior are doing so, the focus is upon why lone mothers do not prevent their children and partners from acting in such a manner. This is clearly problematic for a set of policies informed by communitarian notions of rights and responsibilities. This is so because even if lone mothers have done all they can to control the behavior of their children and partners, the responsibility is shouldered by the women, rather than by those acting antisocially.

15.6 Criminalizing Social Policy?

So far in this chapter we have seen that there are several reasons why criminologists should be interested in the detail of social policy, and we have

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examined the ways in which, in the British example, two areas of social policy are related to crime and antisocial behavior concerns. In many ways the analysis offered feeds into recent arguments that we are witnessing a criminalization of social policy.

The idea of the criminalization of social policy suggests that the boundaries between crime and social policies are becoming blurred [Muncie and Hughes, 2002; Rodger, 2006] or merged [Gilling, 2001]. In brief, such arguments suggest welfare-oriented policies are being developed for their potential to tackle crime, in particular (but not exclusively) youth offending [e.g., Muncie, 2004; Muncie and Hughes, 2002; Rutherford, 2002; R. Smith, 2005; Tidsall, 2006]. While such trends were initially observed at a local level in the operation and strategy concerns of criminal justice partnerships, Muncie [2004:242] points to the ways in which centrally organized policies and initiatives, such as the various New Deal schemes aimed at reducing the nonemployment of various groups, have been drawn into "a broader criminal justice agenda" concerned with the management of risk. Indeed, it is the issue of the management of risk that Gilling [2001:382] argues has enabled the conjoining of criminal justice and social policy, noting that "addressing risk factors and insecurity is something traditionally associated with social policy: the risk factors may be things like unemployment, bad housing and low educational attainment"; although, as is widely pointed out [Hope and Sparks, 2000; O'Malley, 1998; Stenson and Sullivan, 2001], risk has come to be a dominant way of thinking about, and dealing with, offending and antisocial behavior.

Crawford [1999:527] argues that the criminalization of social policy is particularly worrying because "fundamental public issues may become marginalised, except in so far as they are defined in terms of their criminogenic qualities." He highlights, for example, the potential to "view poor housing, unemployment, poor schooling, the lack of youth leisure opportunities and so on as no longer important public issues in themselves" [ibid.].

However, as we saw at the start of this chapter, social policy is ambiguous because, among other things, it has different meanings. We have focused on it as a set of government policies, and in this context it appears that there are instances of the conjoining of crime and social policies, some of which we have discussed in this chapter. It falls to social policy as an academic discipline to interrogate such trends.

We have seen that concern with the character and behavior of poor working-class people is nothing new; income maintenance and housing policy have been concerned with such matters for many years. In this context, it is difficult to conceive that we are witnessing a criminalization of social policy in contemporary society because since collective responses to various needs emerged, there has been concern with how policies may affect the character and behavior of recipients. Poor people have consistently been viewed by the

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local and central state as being wanton in terms of character. They are held to have a moral deficiency that is argued to be encouraged by the provision of benefits and services.

That said, it would be ahistoric, and clearly wrong, to suggest that relationships between social policies and behavior do not change. Here, Flint's argument [2006] that the governance of behavior has a historical fluidity has a wider resonance. In this sense, interconnections between crime and social policy in contemporary society can be interpreted as being different to those in the past. Whereas in the past there has, at a general level, been concern about the effects of welfare interventions on the character and morality of recipients, in contemporary society there is a more concentrated focus on the ways in which benefits and services can be used to encourage or discourage particular behaviors.

Rodger's arguments are useful in this context because he suggests there has been a shift in the emphasis of state welfare "from one geared to *social steering* through the incentives provided by welfare services and benefits, to that of *social control* through the imposition of supervisory orders and the disincentives provided by the criminal justice legislation and the *withholding*, or threat of withholding, of welfare support" [Rodger, 2006:124, emphasis in the original]. The main problem with this changing emphasis in state welfare, Rodger argues, is that it is too narrowly focused on human capital, whereas what is actually needed is a greater focus upon cultural capital, a process that should "seek to shape the existence within which people live their routine lives" [ibid.:124]. This, Rodger concludes, means there "needs to be more welfare support, not less" [ibid.:138]. The implication for social policy is that if governments in Britain are concerned with tackling offending and antisocial behavior, it would be more fruitful to focus upon tackling contemporary levels of inequality, which are the greatest ever recorded, and committing themselves to nonconditional welfare benefits and services that locate "problems" in economic and social structures, rather than in the character and behavior of individuals.

If governments resist such policies, as is likely to be the case, Britain will continue on a path that worsens the material conditions of individuals and their families in an approach that socially based explanations of crime and deviance tell us provides the context for much offending and antisocial behavior, rather than addressing it in any meaningful sense.

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Truth, Reality, Justice, and the Crime Genre
16
Implications for Criminological Inquiry and Pedagogy

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16.1 Introduction

Criminology and the crime genre occupy different spheres of inquiry. In this chapter we argue that there is overlap between these spheres. Two themes characterize criminology as an academic discipline and crime as a genre of cultural production: seeking truth and, by extension, doing justice. The

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crime genre often reflects criminological thinking, and increasingly, many contemporary criminologists include the crime genre in their research.

Sutherland's famous dictum [1939] became criminology's definitional mantra many years ago: criminology is the systematic study of lawmaking, lawbreaking (etiology), and the social reaction to lawbreaking. Criminologists got at the truth of these definitional dimensions through empirical inquiry. Informed by a largely positivistic approach, criminologists assumed that there was an empirical reality that could be known—the truth about crime. Pedagogically, generations of criminologists learned this approach in theory and methodology courses. Of course, criminology also entailed an applied aspect [Chilton, 2001; Knepper, 2007]: knowing the truth about crime could and should affect crime policy, for example, through strategies that would make the criminal justice system more effective and just.

As a form of cultural production, the crime genre dealt with these same themes. Generations of fictional police detectives, private detectives, citizen detectives, and lawyers tried to ferret out the solution to criminal mysteries in ways that would reveal the truth and produce a just resolution. Writers created these dramatic narratives and scholars analyzed them. Crime genre scholars worked within established canons of scholarship, usually in the traditions of interpretative criticism. Most focused on a particular medium, for example, crime novels [Cawletti, 1976] or crime films [Krutnik, 1991].

Until about 20 years ago, most criminological media research focused on the inconsistency between media crime imagery and scientific crime data. Criminologists worried that because most people have little firsthand experience with crime or the criminal justice system, what they know about these matters comes mostly from television and other media [Savelsberg, 1994]. In the United Kingdom and United States, popular television crime dramas attract millions of viewers who watch representations about crime and justice, for example, what causes crime and what we should do about it. Increasingly, these representations, whether in news, drama, or reality programs, communicate images of crime that are inconsistent with accepted criminological evidence. Criminologists fear that these depictions cause public misinformation and an exaggerated and distorted sense of the crime problem. Such misinformation may produce draconian crime control policies (Altheide, 2002].

Criminologists lamented inaccurate depictions in crime news and fiction, but they rarely analyzed the cultural dynamics through which they were produced or the insights the depictions offered into contemporary cultural issues [Dowler, 2007]. There were, of course, exceptions. Over fifty years ago, Davis [1952] analyzed crime stories that appeared in U.S. newspapers, and more than 30 years ago, Cohen and Young [1973] published an edited volume that addressed various dimensions of crime news. Other criminologists, following the work of media sociologist Gaye Tuchman [1978], analyzed the social construction of crime in the media [Mason, 2003].

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Although in the past criminologists rarely studied the media, criminology is changing. The impact of critical and reflexive social science approaches as well as feminist, critical race, and postmodern critiques have made their way into criminological inquiry. These approaches not only challenge traditional positivist notions of truth and reality but also argue that a more thorough understanding of crime and meaningful crime policy requires greater attention to such social justice issues as inequality and globalization. Justice cannot be obtained through the criminal justice system alone. Another change that is relevant for this chapter is that some strands of criminology, informed by cultural studies, are producing a cultural criminology that examines the dynamic relations among crime, criminology, media, and society. Cultural criminology assumes that crime, media, and our understandings about each are grounded in culture and that such cultural practices are embedded in the dominant processes of power [Jewkes, 2004:29]. Cultural criminology considers the cultural constructions of crime and crime policy and attends to "the public's fascination with crime and violence in the media and as spectacle" [ibid.:28]. Accordingly, criminological, popular, and media constructions about crime are more interrelated than traditional, more positivist approaches to criminology conceptualized.

Many criminologists now incorporate more complex analyses of media depictions into their research agendas. This scholarship, which includes crime news, crime drama (especially on television and in film), and reality crime television, assumes that an understanding of the mediated constructions of crime is essential to an understanding of crime policy [Mason, 2003; Cavender, 2004]. Some of this scholarship continues the social science tradition of research, some draws upon cultural studies approaches, and some is informed by both traditions. In any event, in the twenty-first century, criminology increasingly engages the media—including the crime genre—and its link to broader social justice issues.

In this chapter, we offer an overview of the crime genre on U.S. and U.K. television. Because crime is a prolific television genre, we cannot analyze all relevant programs. We do, however, address the most salient trends in the television crime genre, especially as they are linked to important trends in thinking about crime and crime policy. We have selected several series that exemplify some of the major trends that we discuss. We also provide an overview of academic scholarship that addresses the television crime genre. Our discussion addresses the nature of these productions, issues of gender and race, and, as noted in the title of our chapter, issues pertaining to truth, reality, and justice. We then relate these genre issues to criminological inquiry and their relevance for criminological pedagogy. We begin with a brief overview of television crime genre history and popularity.

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16.2 Brief History of the Crime Genre

Since *The Newgate Calendar*, a collection of crime stories, first appeared in England in 1773, the crime genre has flourished as a category of cultural production [Knight, 1980]. Thereafter, as new media appeared, the crime genre appeared and, more often than not, proliferated in them. When television became popular in the 1950s, the crime genre was there and was quickly a staple. Crime dramas have been one of the most popular genres in prime-time programming for over 50 years [Mawby, 2003]. For example, during its 10-year run (1957–1966), *Perry Mason,* a U.S. series about a criminal defense attorney, was usually among the top 20 most-watched programs, and during several seasons it was among the top 10 programs on television. In the United Kingdom, *Dixon of Dock Green* (1955–1976) was one of the most popular programs on television [ibid.]. More recently *The Bill* (1984–), enjoying a run of over 25 years, has generated three spinoffs and been aired in more than 50 countries. In addition to popularity, television crime dramas frequently earn critical acclaim. Such acclaim notes in particular the realism associated with successful programs. Scholars [e.g., Cawletti, 1976; Klein, 1992] argue that the widespread appeal of the crime genre is associated with its inclusion of such formulaic elements as mystery puzzle solving, excitement, realism, and struggles for truth and justice by a protagonist with whom viewers can identify.

16.2.1 Realism

Some scholars argue that the crime genre is appealing in large part because of its believability [Scaggs, 2005]. Sometimes, this verisimilitude is produced by the narrative's thick description, its attention to detail. In one well-known example, the attention to detail includes not only specific information but also a commitment in the detective to notice these details.

Sherlock Holmes: "You see, but you do not observe. The distinction is clear. For example, you have frequently seen the steps which lead up from the hall to this room."
Doctor Watson: "Frequently."
Holmes: "Then how many are there?"
Watson: "How many! I don't know."
Holmes: "Quite so! You have not observed. And yet you have seen. Now, I know that there are seventeen steps, because I have both seen and observed." [Doyle, 2005]

In the crime genre, detectives see and observe (deduce or infer) what others miss.

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At other times, verisimilitude is a matter of a production style that privileges a sense of realism in terms of characters and their situation. This realistic style appeared in the hardboiled tradition of writers in the 1930s and 1940s (e.g., Dashiell Hammett) and in the social problems films of the 1940s (e.g., *The Lost Weekend*, 1945), and has frequently characterized many crime dramas on television. A prototypical "realistic" U.S. television crime drama was *Dragnet* (1952–1957; 1967–1970). This classic police procedural invited the audience to watch "behind-the-scenes" operations of the Los Angeles Police Department. The use of police jargon, attention to detail, and location shooting gave *Dragnet* its sense of realism.

Programs in the United Kingdom resembled the *Dragnet* style to various degrees. In the 1960s, *Z Cars* provided a "realistic" portrayal of patrol officers. Such realistic programming was the progeny of the documentary division of the BBC, which set out to document aspects of everyday British life, including life among professions like the police [Sydney-Smith, 2007]. In the 1970s, a U.K. production about an elite police unit, *The Sweeney*, gave audiences a view of the world of petty criminals and racketeers. Production techniques such as location shooting in recognizable urban settings, the type of sound recorded, and plausible characters gave *The Sweeney* a sense of immediacy and realism [Hallam, 2005:42]. Thames Television and Euston Films Limited produced the series. Modest production budgets gave *The Sweeney* its look [ibid.:34].

In the United States, similar production techniques enhanced the realistic sense of *Hill Street Blues* (1981–1987). These techniques included overlapping dialogue, actors who spoke as they moved away from the microphone, and offscreen actors who provided unintelligible background dialogue to give a sense of the buzz of a squad room [Gitlin, 1983].

Another form of realism in the crime genre arises when episodes are based on real events. This approach was common in 1940s films. Films like *The Naked City* (1948) drew on actual cases and were shot on location in a documentary production style [Wilson, 2000]. In the United Kingdom, *The Blue Lamp* (1949) was based on the actual murder of a police officer. Filmmakers had access to Scotland Yard detectives as well as to a variety of locations, including police stations [McLaughlin, 2005]. Contemporary productions reference actual events (e.g., the protagonist in *Prime Suspect* mentions a survey of citizen attitudes about women in policing) or actual cases (e.g., a *CSI* episode was based upon a case wherein a funeral business saved money by dumping corpses rather than cremating them). Characters may even appear on fictional reality crime television programs; this lends a strange sense of authenticity to the drama and demonstrates the increasingly self-referential nature of television.

16.2.1.1 Reality Crime Television

The most obvious truth claims come in reality crime television programs. They claim to present actual crimes, witnesses, and police officers; these

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devices are designed to get at the truth of unsolved crimes or to locate missing fugitives. Programs like *Cops* supposedly give the audience a sense of what it is like to ride with the police. Research on these programs indicates that although they claim to be fact based, they are television: vignettes in programs like *America's Most Wanted* are scripted and dramatized with actors, and programs like *Cops* with ostensibly real footage are heavily edited. Thus, the reality presented on such programs is far more elusive than the titles suggest.*

Thus, since its origins, the crime genre has evidenced a fictionalized commitment to the truth, whether through claims that stories draw on actual cases, through the type of dialogue that we noted, or through a presentational style that produces the sense of verisimilitude, of realism. *The Newgate Calendar* was supposedly based on the true stories of people gone bad. For Sherlock Holmes, the truth was obtained through a combination of investigation and logical, deductive thinking. In contemporary programs, detectives reach the truth through investigative work; programs draw on actual cases or contemporary issues, and they vary production techniques to connote a sense of realism. These avenues to construct a sense of realism give way to truth claims about series content that blur fiction with reality. In this way, crime genre programming is clearly connected to postmodern challenges confronted in criminology about the precarious and socially constructed nature of truth in society.

16.2.2 Truth

A constant feature of the crime genre (and of criminology) is the search for the truth. Much like traditional criminologists searching for objective facts about crime, crime genre protagonists search for the true facts of their cases—they want to identify the guilty parties who committed the crime. Often, the search for and importance of truth are specifically invoked in dialogue. Recently, as we watched a crime drama, we observed previews for other crime series. A recurring theme in the snippets of dialogue was that protagonists in the previewed programs claimed to be seeking the truth. One lead character said, "I've got to get to the truth." Another protagonist said, "I see the truth."

Also, like traditional criminologists, detectives' methods for discerning truth are varied both within and across programs. Some use such traditional investigatory methods as observation and deduction, and some blend these

* For in-depth reading about reality television, we recommend four books: *Entertaining Crime: Television Reality Programs,* ed. Fishman and Cavender [1998]; *Understanding Reality Television,* ed. Holmes and Jermyn [2004]; *Reality TV: Remaking Television Culture,* ed. Murray and Ouellette [2004]; and *Better Living through Reality TV,* by Ouellette and Hay [2008].

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traditional methods with modern forensic techniques to discern the truth of the case. Most recently two other significant and paradoxical trends have gained widespread popularity in the crime genre: forensic and paranormal investigative programs. We argue that each of these types of investigative series provides interesting cultural insights and that even the more traditional investigative series present nuances reflective of contemporary cultural concerns. We discuss each of these program types and provide program exemplars in the paragraphs ahead.

16.2.2.1 Law & Order

When a college professor asked how many in her class read a newspaper to keep up with current events, one student answered that he did not read the paper but did watch *Law & Order* [quoted in Rapping, 2003:12]. The comment evidences the program's sense of realism and its popularity. *Law & Order* is one of the most successful programs on U.S. television. It is in its twentieth season, now tied with the classic western *Gunsmoke*, which also enjoyed a 20-year run. *Law & Order* has generated two spinoffs: *Law & Order SVU* (Special Victims Unit), in its eleventh season, and *Law & Order CI* (Criminal Intent), in its ninth season. At the height of its popularity, *Law & Order* ranked in the top 10 most-watched programs on U.S. television, and it has been in the top 20 programs for five seasons. The program and its cast have won numerous awards, as have *Law & Order SVU* and *Law & Order CI*.

Law & Order presents the demographics of crime, criminals, and victims in a manner that parallels other television crime dramas [Perlmutter, 2000; Rhineberger-Dunn, Rader, and Williams, 2008]. Analysis of one season revealed that two-thirds of the crimes were murder or attempted murder, white men committed most of the crimes, and although criminals knew their victims in 75% of the cases, there remains a considerable amount of "stranger danger" on the program [see also Soulliere, 2003; Eschholz, Mallard, and Flynn, 2004]. Although emotive reasons (e.g., jealousy, anger) generate most crimes on *Law & Order*, in a surprising 16% of the cases, the cause of crime was some form of mental illness or defect [Soulliere, 2003:28].

Law & Order also *differs* from other U.S. television crime drama. Narratives usually end when the police capture the criminal [Surette, 2007], but *Law & Order* also includes the prosecution stage. In *Law & Order CI*, the narrative perspective includes that of the police and, in some episodes, the criminal. The *Law & Order* franchise of programs employs a documentary style of production that produces a gritty realism, and many of its stories reflect legal current events [Lenz, 2003:156]. Because the narrative continues after arrest, the sense of realism includes aspects of prosecution, including plea bargaining. Episodes depict such courthouse regulars as prosecutors, criminal defense attorneys, and public defenders. Their depiction resembles Blumberg's argument [1967] that although attorneys are on different sides,

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that is, the prosecution and the defense, because they are regulars they must cooperate [Lenz, 2003:158]. Whereas most crime dramas venerate judges, *Law & Order* also depicts some judges as incompetent or corrupt [ibid.].

Rapping argues that *Law & Order*'s urban realism portrays a seedy side of life in dark, sinister streets and shabby bars. In general, people are not to be trusted, not the poor denizens of the blighted urban areas or the middle and upper classes for whom respectability is a facade [Lenz, 2003:28]. Lenz [ibid.:166] argues that *Law & Order*'s sensibility, especially for its prosecutors, is an idealistic realism: they idealistically want to do the right thing (e.g., avoid wrongful convictions) but realistically must do the best they can given the circumstances.

Law & Order continues the trend in U.S. television toward crime genre programs that center the police as an organization. The program's gritty realism is now standard in television crime drama. It exemplifies many traditional techniques of the crime genre such as investigation and deduction and a notion that truth exists apart from the protagonist. However, consistent with increasingly conservative tough U.S. crime policies, it problematizes many traditional protections for the accused. Aggressive interrogation techniques are utilized by some characters as avenues to the ends of discerning the truth that is "out there." The series conveys a sense of cynicism with regard to victims, accused, and criminal justice personnel. Notions of justice are situational and center on finding and punishing the guilty party in each case rather than on any abstract notions of procedural justice.

A recent trend in the television crime genre features forensic science as the main avenue for solving crimes. These programs still features police and accentuate observation and investigative techniques, but science is the final arbiter of the truth.

16.2.2.2 CSI: Crime Scene Investigation

In some ways, *CSI* is like other television police drama. Its demographics of crimes, criminal, and victims resemble those of other police dramas: crimes tend to be violent, usually murder; men commit most of these murders and usually they kill other men, although *CSI*, like other police dramas, still overrepresents women victims. The majority of murderers know their victims, although *CSI* overrepresents "stranger danger" (for more on *CSI*'s demographics, see Deutsch and Cavender [2008]).

While *CSI* resembles other police dramas, it is, nonetheless, a very popular program. Since *CSI* first aired in 2000, it has been one of the top 10 programs in terms of ratings; indeed, it tends to dominate its time slot each week. Its success has generated two spinoffs, *CSI: Miami* and *CSI: NY*, as well as other forensic-oriented crime dramas (e.g., *Numbers*, *Criminal Minds*, and *Bones*). On most evenings, U.S. television features a police drama wherein the protagonists turn to forensic science to solve crimes.

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The appeal to forensic science is the hallmark of *CSI*'s success. *CSI* and its spinoffs privilege the signs and symbols—the iconography of science. *CSI* employs the iconography of science in a manner that makes the program seem scientific; that is, much as the crime genre evokes a sense of realism, *CSI* evokes a sense of forensic realism [Cavender and Deutsch, 2007; Deutsch and Cavender, 2008]. Dialogue is filled with scientific jargon, lab sets are complete with microscopes and beakers, and the characters constantly reference scientific databases. As noted, *CSI* sometimes bases plots on actual crimes suggested by its technical consultants or drawn from newspaper accounts of crimes [Deutsch and Cavender, 2008:43].

CSI's success is ironic: the United States is not a particularly scientifically literate nation, yet one of the most popular television programs is a police drama that conveys a sense of forensic realism. In part, this phenomenon is a matter of production style. The narrative device of allowing senior investigators to mentor junior investigators at crime scenes or in the lab makes for something akin to a scientific tutorial. *CSI* also uses visualizations—its producers call this "visual storytelling"—that permit the television audience to see what the scientists are describing, for example, a bullet's trajectory through the body [Deutsch and Cavender, 2008].

Anecdotal reports suggest that college students, especially criminal justice majors, want to pursue careers as crime scene investigators. The irony is that such courses of study rarely entail the level of scientific preparation that is required in such jobs. The other interesting aspect of *CSI*'s success is the so-called *CSI effect*. Supposedly, *CSI* and similar programs have heightened juror expectations that prosecutors will introduce spot-on forensic evidence in criminal trials, and if they fail to do so, these *CSI*-savvy jurors refuse to convict despite otherwise convincing evidence [Tyler, 2006]. For now, the *CSI effect* remains anecdotal; the small body of scholarship that tests for the *CSI effect* finds no generalizable effect [Shelton, Kim, and Barak, 2007; Hughes and Magers, 2007]. Other scholars, less concerned about the *CSI effect*, address what television presents as the "real world of forensics and criminal justice" and how this presentation reifies scientific evidence [Mopas, 2007]. The characters on *CSI* seek the solution to crimes through claims that physical evidence is the absolute truth, or, in the words of the lead investigator, "We chase the lie till it leads to the truth" [quoted in Cavender and Deutsch, 2008:75]. Harrington [2007] argues that *CSI*'s search for the truth glorifies science in a way that resembles the Sherlock Holmes stories; Holmes was a man of science.

16.2.2.3 Silent Witness

Forensic science crime dramas are also popular in the United Kingdom, where *Silent Witness* first aired in 1996. Its initial protagonist, Sam Ryan, was a female pathologist and a professor in a London university who periodically consults with the police on cases.

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Although *Silent Witness* predates *CSI*, these series share common elements. First, the protagonists solve crimes by using forensic science. Like the investigators in *CSI,* Professor Ryan seeks the truth, although her search for the truth is designed to benefit the victims' families, not simply to discover the criminal [Nunn and Biressi, 2003:200]. *Silent Witness* resembles its U.S. counterparts in that the protagonists are not limited to forensic pathology work; they perform most of the investigative tasks of an entire police department. There also is a degree of graphic realism in the various forensic programs, especially in autopsy scenes. Finally, on *CSI* and its spinoffs, the investigators sometimes exhibit empathy with the victims or their families. Professor Ryan takes empathy even further on *Silent Witness*, exhibiting an "almost paranormal empathy," that is, "a facility of insight and intuition commonly displayed by the heroines of horror and slasher movies" [ibid.:202]. Patricia Cornwell's popular Kay Scarpetta novels, which feature a medical examiner as the protagonist, and such crime dramas as *CSI* and *Silent Witness* demonstrate an enthusiastic audience for a subgenre that solves crimes using forensic pathology. Yet, Professor Ryan's intuitions and insights in *Silent Witness* reveal a competing and ironic trend: a subgenre that deals with the paranormal as a technique for crime solving.

16.2.2.4 Paranormal Detectives

Juxtaposed with a trend toward increased forensic realism and reliance on science as a sure avenue to the facts are a number of popular programs that feature supernatural- and occult-based truth-seeking methodologies. The U.S. program *Medium* (2005–) features a protagonist who solves crimes, not with forensic science, but through paranormal insights: she "sees the truth" when the dead come to her in visions and dreams. There also are hybrid genres such as crime and the occult. *The X-Files* featured FBI agents whose investigations touched upon the paranormal, for example, beings from other planets. The cable SciFi channel in the United States aired a series called *The Dresden Files* that featured a private investigator who was a warlock; his investigations focused on crimes with an occult component. In the United Kingdom, *Murder City* deploys protagonists who are the epitome of rational detectives, but one episode included a psychic who "saw" things that are beyond rational thought; he saved a detective's life. One tension across these programs is that criminal justice personnel reject paranormal explanations for the events they encounter. The audience knows otherwise. Viewers may crave the authority and certainty that science lends to the police, but obviously there remains an audience for crime dramas that address less traditional avenues to the truth.

Despite the interest in paranormal investigations or the vogue for forensic drama, most police procedurals adhere to more traditional investigatory methods to solve crimes. This postmodern pastiche of traditional investigative,

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forensic science and paranormal methods illustrates the strength of the crime genre to accommodate a wide range of adaptations. Yet, there are many commonalities in contemporary crime dramas that reference popular cultural and criminological trends. Programs often provide glimpses of multiple individual and temporal perspectives in a case. Within particular programs, protagonists often exhibit different theories of crime causation and crime policy. For example, in *Law & Order CI*, the lead protagonist, a tough, cynical cop who just wants to bust criminals without worrying about why they did it, is often paired with a partner who exhibits more insight into the social and psychological context of criminality. In *Murder City*, a by-the-books detective investigator is paired with a detective sergeant who operates on hunches and emotional adrenaline. A variety of crime programs feature arguments that debate causal explanations and responses for crime. Unresolved dilemmas with regard to the treatment of suspects and use of force are common occurrences. These debates sometimes evoke arguments heard at criminology conferences. Plot presentation is also far less linear than on crime programs from past decades. Viewers see flashbacks and sometimes future images of crimes from the standpoints of witnesses, detectives, paranormals, or criminals themselves. Akin to postmodern arguments, a sense of simple linear time is destabilized. Despite criminological debates, multiple perspectives, and postmodern temporal orientations, these programs continue to exemplify the search for a tangible objective truth whether it is obtained by rational, scientific, or supernatural methods or a combination of all three.

16.2.3 Justice

Also as in criminology, the crime genre focuses on matters of justice. *The Newgate Calendar* offered stories about people who committed crimes, but they saw the error of their ways. The stories offered a just outcome: wrongdoers experienced redemption. The crime genre is, however, typically characterized by two contradictory perspectives: justice defined as freeing the innocent, and justice defined as capturing and punishing the guilty. As professors, we are located in a program that focuses on issues of social as well as criminal justice [Jurik and Cavender, 2004]. Thus, we have a special interest in crime fiction with social justice implications. We discuss several series that highlight larger issues of social problems and socially just solutions in a manner consistent with an ideal-type model of progressive moral fiction that we have developed.

Private detectives and criminal defense lawyers were frequent protagonists in the early days of television. They owed a loyalty to their clients, and justice meant proving innocence. Perry Mason successfully proved that the police had arrested the wrong person. Private detectives like *Peter Gunn*

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(1958–1961), the epitome of "urban cool," were popular during this period; they found the culprit and proved their client's innocence.

Even so, there were many successful police dramas during the 1960s (e.g., *The F.B.I.* and *Adam 12*), and by the 1970s, they began to dominate the crime genre in U.S. television (e.g., *Columbo*, *The Streets of San Francisco*, *Police Story*, and *Police Woman*). The meaning of justice shifted: justice meant arresting criminals, and at episode's end, there was little doubt of the suspect's guilt.

The police drama was firmly in place in the United Kingdom in the 1970s as well, although representations of the police were changing: programs like *Dixon of Dock Green*, which featured the traditional image of the "Bobby," were displaced by grittier, more socially realistic dramas. *The Sweeney* and *Z Cars* presented a sense of contemporary urban life that was spinning out of control. The police were in a battle with the criminal element, and justice meant producing order in society even if the police had to use violence and bend the rules [Mawby, 2003:221; Hallam, 2005:38]. Crime dramas like *The Sweeney* were a vehicle for articulating the law-and-order debate in the 1970s, and the popular sentiments that these programs reflected and reinforced culminated in the Thatcher regime [Brundson, 2000; Mawby, 2003].

From the 1980s onward, police drama in U.S. television exhibited a sensibility much like that of *The Sweeney*. For example, Gitlin [1983:313] calls *Hill Street Blues* television's "first post-liberal cop show": social institutions were failing, and the best the police could do was to try to maintain order. By the 1990s, this worldview permeated programs like *NYPD Blue* with narratives in which parents, teachers, and sometimes even the police simply did not know what to do. A tough, law-and-order approach was the only option. These sentiments and the programs that represented them were a part of the conservative, law-and-order movement that culminated in the Reagan administration [Lenz, 2003; Cavender, 2004].

This sensibility continues today with programs like *Law & Order*. If *Hill Street Blues* was a postliberal cop show, *Law & Order*, according to Lenz, is a postmodern crime drama [2003:164]. Lenz argues that legal issues and constitutional safeguards have nuanced meanings on *Law & Order*, depending upon which characters are considering them; notions of justice are relevant to the particular case, not to some definitive abstract norm [ibid.:167]. Of course, despite such postmodern tendencies, the truth still exists on *Law & Order* when protagonists catch and convict the "bad guys." *CSI* also critiques some social institutions, especially the law (and lawyers). In some episodes the law is depicted as a series of technicalities that lack moral values (and common sense), and lawyers impede the investigators in their pursuit of justice. It is not only lawyers who are problematic on *CSI*: some witnesses are selfish and unhelpful, paralleling Rapping's [2003] characterization of untrustworthy people on *Law & Order*.

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Given the worldview promulgated on these contemporary police dramas, it is no surprise that the police try to get at the "apprehending-the-guilty" view of justice through questionable methods. They use deceit and trickery and sometimes hit or even beat suspects [Wilson, 2005]. On *NYPD Blue*, Detective Andy Sipowitz was known for beating suspects in their cells; but other, less violent officers also slapped suspects. On *Law & Order*, police and prosecutors not only bend the laws of search and seizure but also come close to what Lenz [2003:165] calls "testilying" in court. These actions are depicted as necessary to produce justice, that is, the arrest and conviction of criminals. Constitutional law violations are commonplace in U.S. police dramas [Eschholz, Mallard, and Flynn, 2004; Wilson, 2005].

In a post-9/11 world, times are harder still and the ante has increased. On *24*, which is more of a spy than a police program, the protagonist uses torture (against suspects or their loved ones) to get truthful information to produce a just end—saving the United States from terrorist attack. These presentations have produced some criticism, but the producers defend their narratives as fitting with the contemporary situation [Mayer, 2007]. The necessity of torture is rendered more compelling by the "real time" aspect of the program: the action is urgent, and there is no time for niceties in dealing with terrorists. Torture is now seeping in to other, nonpolice dramas as well. On *Lost*, a popular series about a group of people who have survived a plane crash but are marooned on a strange island, one character (Sayid Jarrah) uses torture against others to produce desired ends, for example, the location of medicine, or to discover whether a potentially dangerous stranger is telling the truth. Some characters on *Lost* are repulsed by the torture; others see it as necessary, given the group's precarious situation. An interesting aside is that *Lost* tries to preserve a modicum of American values: Sayid Jarrah, the torturer, is a former Iraqi military officer.

Although a discussion of film is beyond the scope of this chapter, as an aside we note that crime genre films now reflect the anxieties of a post-9/11 world. Terrorism and the U.S. response inform films like *Vantage Point* (2007) and *Rendition* (2007); in *The Kingdom* (2007), an F.B.I. counterterrorism team travels to the Middle East to investigate a bombing that killed U.S. citizens. The film employs a "them vs. us" binary along with the pervasive fear that none of "them" can be trusted. Even the latest film in the *Die Hard* franchise, *Live Free or Die Hard* (2007), reflects contemporary issues: John McClane, no longer a police detective, now works for Homeland Security and is on the trail of Internet terrorists.

In the film *Garden of Elah* (2007), a father attempts to solve the mystery surrounding his son's murder and discovers that his son was guilty of serious war crimes while serving in Iraq. Films like *Garden of Elah* and *Rendition* problematize torture and war crimes, whereas the other films named here tend to valorize such excesses.

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Like criminology, the crime genre changes with the times. Sometimes crime genre changes parallel the thinking about crime by criminologists; some argue that changes in police television programs reflect changing dilemmas faced by real police organizations, for example, a shift from law-and-order to community relations concerns [Reiner, 1994]. For example, Mandel [1984] offered a Marxian analysis wherein he argued that the fundamentals of crime novel narratives changed with and reflected shifts in the mode of production. Other scholars agree that such ideological issues as what constitutes justice change over time [Knight, 1980; Thompson, 1993]. The media circulate images that to varying degrees inform the thinking of the audience.

Of course, literature on the media does not claim that people simply accept whatever they see or hear; they have opinions irrespective of the media. In terms of opinions about crime, for example, beginning in the 1970s, people changed their attitudes about crime and the solution to the crime problem. Garland [2001] argues that people's "mentalities and sensibilities" about crime changed from attitudes favorable to rehabilitation to more anger at and fear of criminals, which generated more punitive attitudes, and that these changes reflected people's lives. Perhaps the writers who wrote crime genre teleplays responded to shifting attitudes about crime with programs like *The Sweeney* or *Hill Street Blues*. While this may be true—for to be popular, television programs must appeal to a wide audience—we suggest that these crime dramas not only reflect a more punitive view about the solution to the crime problem but also reinforce this view. Television circulates images that affect how we perceive the world. A steady diet of crime news combined with an abundance of crime dramas affects people's attitudes about crime and punishment [Cavender, 2004].

Crime genre narratives present dramas wherein the scripted outcome is the sensible outcome. Ideology is at its strongest when it goes unnoticed, when it seems to be common sense rather than ideology. Those suspects on *NYPD Blue* "deserved" to be slapped around: they are jerks and maybe criminals. Moreover, given the terrorist threat, the torture on *24* is unfortunate, but it is necessary; after all, "they" would do it to us. In such situations where "ends justify means," should we be surprised when a student in class asks, "If it works, what is so wrong with torture?"

Notwithstanding this pessimistic view, there are indications of change. Fictional lawyers are returning to television crime drama. On *The Practice* (1997–2004), the partners in a U.S. law firm relished cases that addressed important social justice issues. Often, however, they were conflicted when they secured the release of a criminal who committed a new crime [Rapping, 2003]. In other lawyer programs, such hand-wringing is not as apparent. *Boston Legal* (2004–2008), a spinoff from *The Practice*, also is set in a law firm. The series employs melodrama as it addresses socially relevant issues. *New Street Law* is a U.K. series that features lawyers who work for the downtrodden. Although *New*

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Street Law was canceled because of low ratings, it demonstrates an important return of the lawyer to the side of truth and justice. A snippet of dialogue is revealing on this point: "What is it that keeps you going, the winning? No, the truth. Either it matters to you or it doesn't." These lawyers seek the truth and justice for their clients, for example, a finding of not guilty for an innocent teenager or a good settlement in a case that involves toxic chemicals.

Private detectives had all but disappeared on U.S. television except as familiar tropes in cartoons and advertisements. This was less the case in the United Kingdom, where because of the "cozy" subgenre nonpolice detectives remained; examples are *Miss Marple* or *Rosemary and Thyme*. *An Unsuitable Job for a Woman* (1997–1999) offered a more standard portrait of a private detective, and one who was a woman. In the United States, there are rumors that a new series is in the works that will feature Raymond Chandler's private detective, Philip Marlowe (National Public Radio, 2008).

Recently, two U.S. television programs have been set in prisons. *Prison Break* (2005–2009) deals with a man, wrongly sentenced to prison, who plans and effects an elaborate escape. *Oz* (1997–2003) dealt with issues ranging from drug abuse to rehabilitation.

Thus, programs are changing on several dimensions, including how they address issues of justice. In some programs, issues of justice move beyond simple notions of criminal justice to confront social problems and inequalities in a larger sense. Elsewhere we have proposed further research on programs that evince elements of a "progressive moral fiction." Progressive moral fiction directs attention to the structural context of crime and other social problems but moves beyond the narrow notions of a legalistic criminal justice. Drawing on literary criticism as well as work in feminist cultural studies, criminology, and legal studies, we have proposed an ideal-type model of progressive moral fiction for use in analyzing dramatic works. Thus, works of progressive moral fiction (1) draw on insights from the experiences of the socially marginalized, (2) locate those experiences within a larger social context, (3) reveal fissures in the predominant ruling apparatus, and (4) offer vision or hope for individual or collective empowerment and challenges to unjust social arrangements and organizations [Cavender and Jurik, 2007:283].

We next discuss the degree to which these larger justice issues arise in contemporary crime dramas. One avenue through which they emerge is related to changes in the police or legal organization as a workplace.

16.3 Changing Criminal Justice Work Organizations and Social Justice Issues

The setting and the cast composition of the crime genre have changed. Since police dramas became the television crime genre staple in the 1970s, the

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police department becomes the workplace focus in most programs. The police workplace includes both the urban landscape and the squad room. Modern police dramas employ many actors and feature ensemble casts instead of a sole protagonist or partner duo.

Setting the police drama in the workplace created a phenomenon in which work life displaced home life in story development. One manifestation of this trend is that characters spend so much onscreen time together they become what Joyrich [1996] calls "a police family" [also see McLaughlin, 2005]. For example, in an episode of *CSI: Miami*, when a character is offered a promotion that would entail a new assignment, she declines, noting, "The team treats me like family." Ensemble casts are relevant to plot development: characters' back stories may drive plots. Many stories are tinged with melodrama, what we call "soapification," whereby police dramas employ the melodramatic techniques used in soap operas [Wittebols, 2004; Mittell, 2004]. Thus, solving crimes and apprehending criminals now share screen time with such melodramatic elements as romance (and breakups) among detectives. Although most crimes are solved in a single episode, melodramatic stories may continue for an entire season.

Early on, especially in the United States, the crime genre was both sexist and racist. Women appeared as victims, family members, romantic interests, or criminals who committed gender-stereotyped crimes under the supervision of male criminals. Men of color appeared as criminals; some imagery was viciously racist, and sometimes people of color were simply depicted as esoteric "others." After the 1960s- and 1970s-era social movements advocating equal rights for women and persons of color, these depictions began to change, although gender and racial stereotypes persisted in crime genre programs [Eaton, 1995; Martin and Jurik, 2007]. However, hints of progress gradually emerged. The U.S. series *The Mod Squad* (1968–1973) featured an African American man and a woman as part of a "hip" three-person undercover police team. *The Mod Squad*'s featuring of a woman in a lead role predated by six years the more frequently referenced first for women—the *Police Woman* series. Although shows like *Police Woman* (1974–1978) and *Charlie's Angels* (1976–1981) featured women detectives in starring roles, their physical appearance and sex appeal were as important as their professional crime-solving abilities. The series *Juliet Bravo* (1980–1985) and *The Gentle Touch* (1980–1984) in the United Kingdom, and *Cagney and Lacey* (1982–1988) in the United States, featured women police officers in starring roles. These series showed women as responsible and effective police officers and also dealt with important social issues. In the 1980s, more African American men appeared as costars of crime dramas, for example, *Matlock*'s (1986–1990) Tyler Hudson and Virgil Tibbs in *In the Heat of the Night* (1988–1995).

By the late 1980s, many programs exhibited greater caution about casting persons of color as criminals, though some research indicates that this

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problem remains for particular racial and ethnic groups [Eschholz, Mallard, and Flynn, 2004]. Latinos and Latinas, American Indians, Asian Americans, and Afro-Caribbeans, as well as individuals whose ancestry traces to India, Pakistan, and other countries in that region, continue to be underrepresented in crime genre programming in the United States and United Kingdom. White police officers, especially men, are overrepresented in crime dramas when compared with their relative presence in real-life police forces.

Nevertheless, women and persons of color are now more a part of crime genre police organizations. In the United States, African Americans are increasingly cast as continuing characters in crime genre ensembles [Hunt, 2005]. Series have included actors who were men of color in lead ensemble roles (e.g., Puerto Rican–Suriname actor Jimmy Smits in *NYPD Blue*, and African American rap singer Ice T in *Law & Order SVU*). Similarly, white women and women of color are now often part of ensemble casts in patrol, investigative, and supervisory roles. For example, women characters on *CSI* are skilled investigators at the crime scene and in the crime lab, and African American actress Epatha Merkerson plays the precinct lieutenant in *Law & Order*. The increased diversity of crime genre ensemble casts provides an opportunity for crime genre programming to address issues of racism and sexism in the police family workplace. Racial tensions between police partners and the role of race in the treatment of police suspects have served as back story plots in such programs as *Law & Order* and *NYPD Blue* (1993–2005). Gender tensions within the police family have also been part of the back story in some programs. The protagonist in *The Closer* confronts both hostility and undermining by her male subordinates. Women characters on *CSI* have faced woman battering and charges by ex-husbands that they are unfit mothers.

Despite the increasing diversity of crime genre ensembles, many programs avoid direct engagement with race and gender issues. Gray [2005] has used the term "assimilationist style" to describe television presentations in which African American characters appear in a largely white world and race is not portrayed as an important feature of social life. This assimilationist approach is also common with regard to gender in the television crime genre workplace. Crime genre television generally avoids plots that feature sexism, glass ceilings, work-family balance issues, or any of the all-too-common institutional barriers to women's advancement in policing [Silvestri, 2003; Martin and Jurik, 2007]. However, the television crime genre is anything but monolithic, and several television mystery miniseries over the past two decades have expanded the diversity of the genre by featuring a variety of protagonists who are members of socially marginalized groups. These protagonists sometimes exhibit "special" insights and abilities that are associated with their marginal social status. Some of these programs also address social problems and inequalities in a manner consistent with elements of the progressive moral fiction model described earlier.

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16.3.1 Justice and Marginalized Detectives

Although crime dramas typically follow a standard format of one weekly episode of an hour in length, the television miniseries usually run in several longer installments. This format permits more in-depth plot lines and character development. We focus here on three miniseries that do an especially good job of illustrating more progressive issues of justice through the socially marginalized status of their chief protagonists. Jane Aiken [2001] has developed pedagogy for training law students to simultaneously recognize the limitations of law and use law to promote socially progressive outcomes. She refers to this process as training "provocateurs for justice." We borrow Aiken's term to refer to the socially marginalized detectives in these three miniseries as justice provocateurs in the television crime genre. Of these miniseries programs, one originated in the United States; two originated in the United Kingdom. Although we focus on miniseries programs, we will make some comparative references to regular television programs that evoke similar themes.

16.3.1.1 American Mystery

American Indians, a staple in the U.S. western genre, are rarely depicted in crime dramas. A significant and popular exception is a series of three made-for-television films that appeared on the PBS Mystery series under the title *American Mystery.* The series features two Navajo police officers, Joe Leaphorn and Jim Chee, played by Wes Studi and Adam Beach. The films—*Skinwalkers* (2002), *Coyote Waits* (2003), and *Thief of Time* (2003)—are adaptations of a series of Tony Hillerman mystery novels. The initial adaptation of a Hillerman novel was produced by Robert Redford as a feature-length film, *Dark Wind* (1993). The film starred Lou Diamond Phillips as Detective Chee. Phillips was not an American Indian, and this casting upset the Navajo community; the film was released to a home video audience. The television productions have been more cognizant of these issues and cast respected American Indian actors in the lead roles.

The *American Mystery* programs are procedurals, they are set on the Navajo Reservation, and the crimes are relevant to reservation life. The films offer a glimpse of life on a Navajo reservation and the many problems and injustices that have been visited upon it. The programs also blend American Indian spiritual views with traditional detective methodology. Both police officers are Navajo, but Leaphorn adopts a more traditional detective worldview eschewing the spiritual as superstition. In contrast, although Chee emulates Leaphorn in police methods, he is studying to be a medicine man ("the blessing way") and values the special insights that he gains from this worldview. Both officers have experienced some of the life problems and marginalization related to the history of their people. Their cases often involve

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efforts of whites attempting to steal Navajo artifacts; sometimes Navajos are complicit in these thefts. Chee's and Leaphorn's understandings of Navajo cultures and communities are essential for solving these crimes.

There are a variety of melodramatic, back story elements. Leaphorn's wife, Emma (Sheila Tousey), battles cancer and seeks cures that draw from both Western medicine and Navajo healing practices. Chee assists Emma in seeking Navajo cures, often amid Leaphorn's skepticism. Chee, Leaphorn, and Emma are each struggling to find a balance between the old ways and their lives in modern society. Chee's romantic interest wants him to leave the reservation with her so they both can pursue careers in Washington, D.C. Chee refuses, though it may cost him the relationship.

Justice in these mysteries entails not only criminal apprehension and punishment but also reconciliation within the Navajo community. For example, in *Coyote Waits*, the murderer is an aging, alcoholic Navajo man, Ashie Pinto, who was paid to assist a white professor aiming to steal artifacts. In order to elicit Pinto's help, the professor plied him with alcohol. Filled with both fear and regret, Pinto killed a Navajo police officer who stumbled upon the theft. Eventually, Pinto confesses and then returns with Chee to apologize to the victim's widow. The struggle for restoration and respect of native traditions in a society that marginalizes the American Indian is a recurrent theme.

16.3.1.2 Second Sight *(1999–2000)*

The miniseries *Second Sight* features Clive Owen as Detective Chief Inspector (DCI) Ross Tanner, a rising star in the London Metropolitan Police Department. Tanner is a stereotypic aggressive and hard-hitting, almost coldly rational detective. Early in the series, he is established as someone who sacrificed a marriage and to some extent his relationship with his young son for the job. He is diagnosed with a rare eye disease that is causing his sight to deteriorate; it ultimately may end in total blindness. Because he cannot face the prospect of a total loss of sight or losing his career as a homicide detective, he hides his vision loss and remains on the job while he undergoes experimental treatments.

Second Sight dramatizes the many difficulties that confront individuals with limited vision. These are magnified for Tanner because he refuses to reveal his malady or to use the aids that must invariably accompany increasing blindness. The series is also interesting from the standpoint of gender studies and the analysis of workers as disembodied. The traditional white, male, and able worker who eschews family responsibilities is presumed for many jobs in our society, and there are often inadequate supports for individuals—women, active parents, or people with physical challenges—to effectively perform these jobs without "special" assistance. Thus, these jobs are said to presume the disembodied worker [Martin and Jurik, 2007]. Tanner was

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intolerant of individuals who could not work 24/7 and needed flexible work arrangements. *Second Sight* provides insights into workplace justice issues for embodied workers. It also provides a critique of the traditional male disembodied worker like Tanner. His marginalization provides an interesting juxtaposition with such other police detectives who do not conform to traditional notions of masculinity as Dangerous Davies in the series *The Last Detective* (2003–2006). Davies is disrespected by superiors, coworkers, and family because he prefers to pursue his investigations in a quiet, methodical manner that is respectful to suspects and is the antithesis of the aggressive detective Tanner portrays. Davies is "the last detective" his superior will turn to with a good case. Not surprisingly, Tanner's ensuing blindness in *Second Sight* effects a fairly significant transformation in his aggressive, confident persona. As he is loses his sighted techniques, he develops acuity in other sensory observation skills. He also experiences hallucinations associated with his disease that present visions of both the crime and the surrounding events. These visions sometimes lead him astray, but at other times they provide helpful insights into the case. His vision loss is gradually accompanied by an ability to understand the world around him to a greater extent than was the case when he could see. His emerging intuitions are crucial to his investigations and combine with traditional policing methods to enable him to solve cases. Although this plot line may overly stereotype the ability of the blind to compensate for their vision loss, the degree to which Tanner must recognize the problems with his life and work before vision loss has important implications for individual-level and social change. He eventually solves a final case and leaves the squad.

Second Sight provides an example of a series that deals with larger justice issues and also features a protagonist who is socially marginalized and through that marginalization experiences special insights. Viewers observe the transformation of the stereotypic traditional detective—a total careerist and iconoclast—into someone who is socially marginalized by a physical disability.

16.3.1.3 Prime Suspect

Prime Suspect, a miniseries that first aired in 1991 in the United Kingdom and in 1992 in the United States, is perhaps the most significant breakthrough for women in television crime drama history and the most successful of the three miniseries that we discuss here. Helen Mirren plays Detective Chief Inspector (DCI) Jane Tennison. The series has aired in 78 countries and won 23 international awards, including U.K. BAFTAs and U.S. Emmys. The seventh and concluding film in the series aired in 2006 in the United Kingdom and in 2007 in the United States.

In the first film, DCI Tennison, despite her rank, is limited to station house duties because she is a woman. She finally gets an assignment but

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experiences sexism from citizens and subordinates who try to sabotage her investigation. Through persistence, hard work, her ability to manage a team of investigators, and attention to the lives of women victims and witnesses, Tennison solves the case and earns the respect of her subordinates.

Actress and author Lynda La Plante created the series after watching a reality television crime program and making an ensuing phone call wherein she learned how few DCI-level women officers worked with the London Metropolitan Police. She met with and modeled the Tennison character after a real policewoman, DCI Jackie Malton [Hallam, 2005]. An actual sexual discrimination case involving Alison Halford, the United Kingdom's most senior policewoman, also provided a back story for *Prime Suspect* [Brundson, 2000]. The first *Prime Suspect* episode was virtually a textbook case of sexual discrimination in the workplace, including the interactional and organizational-level barriers faced by women working in policing [Cavender and Jurik, 1998]. *Prime Suspect* was popular; women in many professional occupations, including criminal justice fields, identified with DCI Tennison's work experiences [Rennert, 1995].

Prime Suspect secured a place for women protagonists in the police procedural, a subgenre that had been "unsuitable" for women [Klein, 1995]. Although the police organization is the real star of some procedurals, Mirren's portrayal of Tennison is central to *Prime Suspect*. The series nonetheless attends to such backstage routines of the police as canvassing neighborhoods, checking financial records, and completing other tedious work. By avoiding many of the soap opera elements we described earlier, *Prime Suspect* advanced the gritty realism of police procedurals. Jermyn [2003] credits *Prime Suspect* with ushering forensic realism into crime drama.

In addition to its focus on issues that confront professional women in the traditionally male workplace, the series also addresses other important social problems. Episodes deal with racism (in the community and institutional racism in the police organization), class prejudice, anti-immigration sentiments (in the community and the police), and alcoholism. These socially conscious story lines follow a crime genre tradition, although one that is not as common today as it was in the past: the "social problems" films of the 1940s and 1950s dealt with a variety of social issues through the template of the crime genre [Krutnik, 1991]. *Prime Suspect*'s women-centered procedural predecessors, *Cagney and Lacey*, *The Gentle Touch*, and *Juliet Bravo*, also presented socially conscious story lines.

Despite its socially conscious story lines, some scholars have been critical in their assessments of *Prime Suspect*. Jermyn [2003] argues that a woman protagonist does not necessarily guarantee that a series is progressive or feminist oriented. DCI Tennison is not helpful to other women or to racial or ethnic minority police officers under her command. In *Prime Suspect 2*, for example, for much of the episode Tennison purposefully assigns demeaning

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tasks to her ex-lover, a black male subordinate recently assigned to her team. Even her white subordinates complain that she is assigning him duties unbefitting his qualifications, but she stubbornly persists out of fear that discovery of her past relationship with him would harm her career. She is equally harsh to a young black woman subordinate in *The Last Witness*, claiming that the subordinate allowed her young children to interfere with her commitment to the case. Despite her own past experiences of discrimination, Tennison allows her single-minded commitment to policing to disrupt any identification she might share with these marginalized colleagues.

At the same time, while Tennison may not help subordinates, she is "on the job" for the socially marginalized victims in the series. Indeed, as we have suggested elsewhere [Cavender and Jurik, 2007], *Prime Suspect* exhibits some of the tenets of a model of progressive moral fiction. Not only are the victims in the series members of socially marginalized populations, but also that marginalization is an element of their victimization. Moreover, the police or other institutions of authority care nothing about these crime victims. For example, in *Prime Suspect 2* and in *The Last Witness*, officers express disdain for murder victims who are immigrants and/or people of color. DCI Tennison takes them to task. In one case, she threatens to terminate the racist officer; in the other, she suggests that the offending officer must expand his concept of the community the police serve or she will send him to cultural sensitivity training. Tennison also exhibits "special" insights into her cases, perhaps based on her knowledge as a woman (e.g., she recognized from a victim's wardrobe that the police had misidentified her as a prostitute), or more often simply because she takes the time to attend to the experiences and circumstances of victims and witnesses who are socially marginalized and accordingly disregarded by other detectives.

DCI Tennison is relentless in seeking to obtain justice for these victims. Frequently, her efforts uncover corruption in government or in the police organization. Her investigations reveal flaws in the criminal justice system and in the ruling apparatus that she must overcome to solve the crime. When she is successful, DCI Tennison offers hope that a justice provocateur can challenge an unjust situation. We agree with such other scholars as Creeber [2001], who sees Tennison as an iconic character who has changed the face (and the gender) of the police procedural.

Because of its success, *Prime Suspect* has paved the road for other women-centered police procedurals. A U.S. series, *The Closer* (2005–), features Deputy Chief Brenda Leigh Johnson, who works in an elite murder investigation squad that is largely male. Like Tennison, she experiences resentment because she is a woman; indeed, an aggressive male competitor, the head of another division, plants a mole in Johnson's team to find information to discredit her. Johnson sometimes loses confidence, but she also has an intensity that drives her to discover "whodunit." *The Closer* is less gritty and realistic than *Prime*

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Suspect and offers less engagement with social justice issues. A U.K. series, *Blue Murder* (2003–), also resembles *Prime Suspect*. DCI Janine Lewis leads a team of mainly men in murder investigations in Manchester. In contrast to Tennison, who has no children, DCI Lewis is a divorced mother of four children. Plots involve her ex-husband, who left her because of the time commitment of the job, and also the difficulty of juggling work and family demands. In one episode, her son begins to "act out" because of his parents' divorce and her work schedule. Also in contrast to Tennison, Lewis is accepted and respected by supervisor and subordinates even amid her constant struggle to balance work and family. However, *Blue Murder* offers less engagement with cases that involve complex social problems than does *Prime Suspect*.

We have described three miniseries as crime genre examples that promote more progressive notions of justice than those conventionally portrayed on television. At the same time, however, many police dramas evoke cynicism and despair. Programs like *The Wire* (2002–2008) continue to depict (heroically) thuggish police officers, and some of the detectives in *The Ghost Squad* (2005) are so corrupt that they are indistinguishable from the criminals they pursue. The police organizations in these series appear as some combination of chaotic and impenetrable as far as hope for reform and justice go.

Following the suggestion of cultural historian Raymond Williams [1989], we have specifically focused on positive examples to understand the components of and possibility for such cultural productions. The protagonists of *American Mystery*, *Second Sight*, and *Prime Suspect* are by no means superheroes; each is flawed and often behaves in complex and sometimes contradictory ways. These flaws actually promote a richer contemplation of the justice issues presented in the programs.

16.4 Conclusion

At the outset, we suggested that an understanding of the crime genre was relevant to criminology. Notions of how we get to the truth and what we mean by justice, standard dimensions of the genre, are at the heart of Sutherland's historic definition of criminology [1939]: where do laws come from, what is law's purpose, what causes crime, and what should we do about it? These elements are regularly addressed in crime genre productions. A critique of law as an impediment to policing is a standard feature in police dramas. Rafter [2006] argues that the crime genre reflects dominant criminological theories, especially with regard to crime causation. We argue, further, that crime dramas actively engage, debate, and advocate crime theories and policies. In some programs, television criminals commit horrible crimes because they are hopelessly bad or defective people. Episodes of *CSI* privilege rational-choice explanations of criminality. Some characters set forth more contextual views;

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others present more chaos theories of crime. Changes in crime dramas over time also reflect trends in popular views of crime causation, crime policy, and good policing.

We suggest that criminologists should study the crime genre because the images that it circulates inform citizens about crime and solutions to the crime problem. As criminologists, we need to understand how and why the media circulate these representations, and how they inform the public's thinking and, ultimately, crime policy. Criminologists need not be passive in these matters, however, but can create new ways of analyzing media depictions and even comment on the implications of changing media productions. As an emerging perspective, cultural criminology is sensitive to the relationship between crime and popular culture, whether in understanding how and why the media depict crime as they do or in appreciating the public's fascination with crime as spectacle [Jewkes, 2004]. Some criminologists are already incorporating an appreciation of cultural production in their research agendas—for example, how gothic images inform depictions of serial killers [Picart and Greek, 2007], or how cultural narratives inform historical depictions of crime and criminal justice [Srebnick and Levy, 2005].

We argue for a model of progressive moral fiction [Cavender and Jurik, 2007]. As a research tool, this model permits criminologists to focus on the crime genre's presentation of the crime problem and solutions that transcend the narrow strictures of a legalistic criminal justice approach. Perhaps even more important, a model of progressive moral fiction might facilitate a criminological pedagogy that not only fosters analytic rigor but also considers examples of crime drama that offer, not cynicism and despair, but hope for transformations that promote social justice.

If the ultimate aim of law is justice, we need to understand how justice is defined. Much as criminology can expand its intellectual agenda to include war crimes [see Hagan and Greer, 2002], and it can expand its agenda to understand how mediated images shape our thinking about crime and criminal justice, and also about the potential for a just society.

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The Police Response to Crime

17

MEGAN O'NEILL

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17.1 Introduction

Nostalgia is a fun thing. When one thinks of the past, especially a past too far away to have experienced firsthand, all the mistakes of the time are forgotten, the details neatly smoothed over, and all the answers to modern predicaments lay apparent. So this seems to be the case when politicians and policymakers think of 1829, Sir Robert Peel, and his Bobbies. "Policing by consent," it was. Friendly constables, never distracted by squawking radios, never speeding by in police cars, would wander amiably around their patch. They would get to know everyone in their area, have access to all pertinent "intelligence" (in modern terms), and could probably see off a good deal of trouble before it began. They were trusted and respected, a perfect model of community engagement.

Then lo, the bad times came in the form of the twentieth century. The police were a reactionary, distant, and forceful institution. Police constables changed their "patch" as frequently as their radio batteries. The public was an unknown entity to police and one of which to be wary. Patrolling was done from the safety of the squad car, and "community engagement" largely involved getting information out of paid informants, themselves dubious

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characters. Corruption scandals erupted on both sides of the Atlantic, encouraging performance targets and accountability measures, which deepened the bureaucratization of the institution. While this era became a new management age in policing, the poor, ignored, marginalized, and discarded communities lamented the loss of their Bobbies, the blue sentinels that had stood firm and had signified to them (if not in words, then in their being) that it was 6 o'clock and all was well.

Obviously, the foregoing description is an exaggeration of both scenarios. The political reasons for the origin of the Bobbies and their initial remits are of continuing debate [Brogden, 1987; Styles, 1987]. But what is certainly clear is that all members of the community did not openly embrace them [Rawlings, 2001]. In addition, Peel never intended his police constables to engage with the community as partners in crime control [Tilley, 2003]. The constables were to patrol, checking doors and windows, and by their mere presence would deter thieves and other criminals [Emsley, 2003]. Thus this model is really a rather passive and reactive one [Manning, 1997], which focused police attention on street crime and on the poorer sections of society for the origin of that crime. However, one could be forgiven for overlooking these points, considering the way politicians and policymakers seem to view this period in history as being policing in its "purest" and ideal form.

While the earlier description of the twentieth century may also be an exaggeration, there was indeed a "crisis" of confidence in policing in the latter half [Wright, 2002]. The police in England and Wales moved from the old foot patrol beat system to a motorized patrol system in the 1960s. This enabled the officers to patrol larger geographical areas and provide a fast response to calls coming over their new personal radios. It was argued that this would improve police-community relations, but in fact the opposite happened [Newburn, 2003]. In addition to mobility and speed, the police acquired other new technologies in the subsequent years: computer-assisted dispatching, the centralized emergency telephone numbers (999 in the United Kingdom, 911 in the United States), and other developments that, when combined with motorized patrol, resulted in a policing system that prioritized action and fast response to community engagement and service [Manning, 1992; Newburn, 2003]. Despite the new technological advances, the police were still not able to exert much of an influence on the crime rate and were felt to be too distant from the people they served. Minority ethnic people in particular can have very problematic relationships with the police because they frequently come under the police gaze as objects of suspicion rather than of protection. Something needed to change, and Peel, his Bobbies, and nostalgia combined to provide a golden age of policing; long lost, but perhaps not irretrievable [Brogden and Nijhar, 2005]. The fact that the "community as partner" was not a factor in Peel's vision is quietly neglected here.

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Thus we now find ourselves in the age of community-oriented policing. This, along with neighborhood policing (in the United Kingdom), intelligence-led policing, zero tolerance policing, and problem-oriented policing, makes up a large proportion of the current police response to crime problems. Some of these approaches are more prevalent in the United Kingdom, others in North America, but all are discussed here to examine how they are supposed to be a better way to address crime than what went on before. The basic idea is to get away from "reactionary" crime control methods that deal with all incidents in isolation from each other [Tilley, 2003; Wright, 2002], although this is less so with zero tolerance policing. Each has a different way of going about this, but none, as yet, seems to be an ideal answer to the question of how best to do policing in the twenty-first century. This chapter is largely written from the UK perspective, although there is considerable overlap with policing developments happening in other countries as well, most notably in the United States and Canada.*

17.2 The Traditional and the Managerial

Before we can examine the more recent developments in policing, we should first have a brief look at policing in the traditional sense and then in the age of New Public Management. These set the stage for what was to come, for many police reformers felt that the traditional model had essentially failed and the new management practices kept the police too distant from those who were policed. The term *traditional* in this sense refers to the postwar era of policing when the police worked in beats in motorized patrols, rather than to the Peelian approach described earlier.

A traditional approach to policing prioritizes a crime-fighting mentality in which crimes are usually handled independently of each other and in a reactive, rather than proactive or preventative, way. Police officers mainly patrol in cars, and minor infractions are seen as crimes to be pursued rather than as signs of larger social problems that need to be addressed [Manning, 1997]. Technology is highly prized as being essential to investigation to the extent that members of the public are often contacted electronically rather than in person. Investigation is generally seen as the epitome of police work, and community activities have the lowest status. This enforcement approach to policing can have a limited impact on the crime rate, and simply doing more of it, in terms of increased police budgets, does not improve this [Brogden and Nijhar, 2005; Tilley, 2003]. Police culture tends to be viewed as orienting itself around this

* This is not meant to encourage the assumption that policing experiences in North America and the United Kingdom are largely the same or that these systems are always appropriate for adoption by other cultures. See Brogden and Nijhar [2005] and Pino and Wiatrowski [2006] for more on the perils of ethnocentrism in police studies.

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vision of policing [O'Neill and Singh, 2007], which was seen as unproblematic until the 1970s and 1980s. Communities were becoming increasingly socially and ethnically diverse, and the crimes that affected them had varying characteristics that the police were struggling to address. Crime rates continued to rise, as did the cost of policing [Brogden and Nijhar, 2005]. In addition to this now largely ineffective approach to policing, police officers themselves were coming under scrutiny for their behavior (planting evidence, abuse of suspects, taking bribes, etc). Several corruption scandals have occurred on both sides of the Atlantic in the mid- to late twentieth century, leading to various attempts at reform, which usually met with limited success. Police morale was falling, as was the public's confidence in the police [Wright, 2002].

In the 1980s and 1990s came the move toward effectiveness and efficiency in the police service. This is the dawn of the New Public Management (NPM) era in the United Kingdom (and similarly of COMPSTAT* in the United States), which sought to reconceptualize the police in terms of being a service, rather than a force, that was accountable to its customers, rather than to clients or "the public." Public services were increasingly managed in ways similar to those of services in the private sector [O'Malley, 1997], where performance was to be measured against preset targets to ensure best "value for money." These locally set targets for policing were designed to meet nationally set objectives [Fielding and Innes, 2006]. This has had many implications for policing practice, some of which will be discussed in later sections of this chapter. While the move toward this kind of managerialism was intended to ensure that the police service performed more effectively, the types of police work that are most easily measured, evidenced, and quantified are those that rely on traditional policing methods (enforcement leading to better arrest rates, clear-up rates, etc.). Certain types of crime—known as *volume crimes*, such as burglary or assault—satisfy these targets better than others, and thus these tend to be prioritized. Police methods themselves remained largely unchanged in this management style, though their use is now more carefully held to account. Essential to this approach is the public's role as consumers of a service who deserve to be satisfied that their needs are being met. However, because policing objectives are set at a national level, there is only a certain amount of scope for how much the community can influence policing in this model [Long 2003; Maguire and John, 2006]. So while the New Public Management was meant to be a great change in the police organization (and in certain respects it is), it has left some of the key problems with policing unaddressed: enforcement-oriented methods into which the public has little real input are still valued. Manning [1999] has argued that not only is it not possible for the police to be "efficient and effective," but also it is actually not

* COMPSTAT is a police administrative software package in use in the United States. It is linked to the success of zero tolerance policing in New York in the 1990s. See later section in this chapter on zero tolerance and Moore [2003] for more.

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desirable. For example, a public service that needs to be able to respond at a moment's notice to any event must have extra resources and time at the ready to spend on it—something that is neither efficient nor effective in terms of officers' overtime and public spending.

17.3 Community-Oriented Policing

Community-oriented policing (COP; also known just as *community policing*) is meant to take the involvement of the public in their police service to a new and deeper level than that afforded in the new management styles (although it can help to meet some of the NPM accountability requirements) and to encourage nontraditional policing practice. As Skogan and Hartnett [1998] discuss, there was a coalescence of factors that made community policing possible in the United States from the 1970s onward, but particularly in the 1990s. Much of this was mentioned earlier in the chapter in relation to the problems of the traditional approach to policing. Minority ethnic groups had developed a history of conflict with the police, sometimes culminating in urban riots. Enterprising and aspiring senior officers who were willing to embark on new approaches to these communities found their career prospects enhanced. Top police officers now often had university degrees in subjects that encouraged a receptiveness to change. Police managers, policymakers, researchers, and consultants had developed a robust network to communicate new ideas and share good practice across the country. The general move toward a more effective, efficient, and accountable police service was also present here along with new technologies to improve communication with a local public. This ability to target police resources more directly toward community needs, as well as a growing willingness of police managers to do so, made a ripe situation from which community policing could emerge.

Unfortunately for the purposes of this chapter, it is very difficult to find a clear definition of community policing. Part of the reason for this is the nature of this type of policing, in that the needs of the local area are prioritized and thus any activities done in its name will be unique to that situation and its people. Thus the exact way in which community policing is done will vary not only between police forces but also within them.

Brogden and Nijhar [2005:23–24] offer the following as guidelines for identifying community policing:

- Neighbourhoods or small communities serve as primary foci of police organizations and operations.
- Communities have unique and distinctive policing problems that conventional police organizations and responses have not traditionally addressed.

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- Community consensus and structures should guide police response to the community's crime and security problems.
- Policing should be both locally accountable and transparent.
- Police discretion is a fact and should be used positively to maximise community confidence in the police.

The general idea, then, is to take policing down to a rather microscopic level of engagement, to be led by these local actors in whichever way they see fit, and to be held accountable to them. Thus this approach goes against many of the methods the police used to do their work before, or, more importantly, it goes against the kind of working practice the police value most highly: internally driven, crime-fighting approaches where offenders are pursued and captured and the community is there mainly to give the police any information needed to do the job [Brogden and Nijhar, 2005; Skogan, 2006; O'Neill and Singh, 2007]. While the police have always, to some extent, been involved in social work types of activities, these were not regarded very highly as being true police work. The emphasis in community policing is to reverse that tendency, to see the community as the main priority.

Perhaps more important than a definition of community policing here is a definition of community. Because this concept forms the basis of all further police action, we must consider how exactly it is identified. Now while that is probably a task best left to a different volume of academic research entirely (and has been), a few thoughts will be considered here. There are different ways the police can go about identifying and engaging a community, such as by using preexisting networks or forums, approaching a specific geographical area to illicit its input, or linking in with identity groupings (e.g., specific religious or sexual orientation–based groups). All of these communities come with their own inherent problems, among them finding suitable leaders, having internal fissures, and responding to competing demands, as well as facing difficulty in remaining stable for a reasonable length of time to allow work with the police to be successful. Community police officers may find themselves faced with different accounts and demands from the same group [Hughes and Rowe, 2007]. With pressure from above to engage with and reassure these nebulous entities, community officers have to do the best they can. It may be that "community is not so much a descriptive term as a process whereby key actors (police officers, community safety managers and such like) construct and mobilize selectively discourses of community and aim to make them conducive to the aims of government" [ibid.:338]. The result is that those areas that probably need more positive engagement with the police are least likely to have it. These would tend to be the more deprived areas, accustomed to seeing the police as oppressive law enforcers rather than as partners in local area development. At the same time, those who are willing to work with the police are precisely those who

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least need it: well-organized community collations with comparatively fewer crime problems [Tilley, 2003; Skogan, 2006]. It appears, in effect, that a high level of social capital—strong social networks in a community that bring about collective action and maintain social control—certainly helps make community policing easier, but areas with high social capital have less need of engaging with the police more than they already are.

Although it may be difficult to find and motivate a community into action, that does not mean it cannot be done. Many community-policing initiatives have happened worldwide since their earliest inception in the 1970s. Though community-oriented policing was initially an American concept, it has been exported around the globe [Brogden and Nijhar, 2005], and it even informs efforts at democratic policing in developing and failed nations through its concepts of community accountability and engagement [see Pino and Wiatrowski, 2006*]. Judging the success of COP, however, is another matter. As mentioned before, activities that fall under the *community policing* label are many and varied, so each would need to be assessed independently. As Tilly [2003] points out, however, this can be difficult to do because much of community policing is supposed to be based on police officer creativity and nonstandardized outcomes. Supervising this kind of work, as well as monitoring it and judging its success, can be a murky task. A further complication is that the officers doing the work with communities may focus their efforts on things that can be easily quantified and measured (under the guise of community policing), rather than on the actual problem-solving itself. Brogden and Nijhar [2005] report that many police forces in the United States are no longer even trying to maintain a pretense of community policing, either changing to "community problem solving" or simply reverting back to traditional, crime-led policing. This is especially so in areas of great deprivation, where the police may make gestures toward community engagement but then continue to police in a more traditional way because it is far easier to do so [see Skogan et al., 1999].

Until recently in the United Kingdom, community policing was largely left out of a very powerful measurement of police success, Best Value Performance Indicators (BVPIs) [Herrington and Millie, 2006]. These indicators are a product of the move toward New Public Management in the police, as discussed earlier. What is important for this section is the contrast between the types of policing activities measured by the BVPIs (response times, arrests, clear-up rates, etc.) and those types of activities that are valued and ultimately more successful in a community-oriented approach (e.g., meeting with local residents, and moving children away from crime hotspots). These two approaches to policing "value" exist in parallel to each other and ultimately are in competition with each other for resources,

* Democratic policing, however, goes beyond the concepts of community policing to place issues of human rights and equity to the fore.

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though the current incarnation of BVPIs makes slightly more of an attempt at including community elements, to be discussed later. While success in a community-policing approach may not actually be felt for several years as the changes take root and are not easily quantified, immediate and measurable outcomes can be gained from the more traditional policing methods [ibid.]. And it is by success in these latter activities that police services are measured and ultimately praised for their effectiveness, thus inadvertently encouraging more orientation toward them and less toward the vague, immeasurable, and long-term solutions afforded by community policing [Fielding and Innes, 2006]. The central UK government is, in effect, encouraging two competing policing ideologies but reserving most of its praise (in terms of judging the effectiveness and efficiency of a police force) for the one that relies upon traditional, reactionary policing methods.

Police officers themselves are aware of this tension and of the pressure on the police force to adhere to both ideologies (while community policing might be being dropped in some forces in the United States, it is still a national priority in the United Kingdom, more on this later). The foregoing points to an inherent problem of community policing mentioned before: it largely works in conflict with traditional policing methods, culture, and ethos. But after more than 20 years of COP, in one form or another in the United States and United Kingdom, can some changes be detected in the overall institution to address this? Surely some efforts are being made to sell the idea to new recruits?

Chappell [2007] discusses police training in the United States and reports that while training in the academy has started to incorporate community-policing elements, these are largely missing from new recruits' experiences in field training. The former is largely classroom-based training, whereas the latter involves the new officer out in public with a field training officer, a logical place to build upon the techniques learned at the academy. However, as Chappell argues, the field training method used in most police forces (the San Jose model) has been largely unchanged since its inception in the 1970s, despite being designed to adapt to the local priorities of the agency using it. This is attributed to difficulties in changing the structure and priorities of bureaucratic police institutions, field training officers focusing on "the basics," and cultural resistance to community policing. Peace [2006] analyzes the initial induction period by evaluating how well andragogy is employed in training probationary officers in England and Wales and whether this is successfully applied to furthering community-policing skills. Andragogy theory, which stipulates that adults learn differently than children, has been adopted by the police service as a guiding principle for its trainers. It can also fit very well with developing skills that support a community-oriented-policing approach, because it is student led. This training approach mirrors the emphasis on police officer creativity and experimentation inherent

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in community policing. However, Peace found that despite a recent overhaul of probationer training in England and Wales to encourage community engagement, the then-proposed new methods still prioritized traditional policing techniques largely based around law enforcement; he also found that andragogy was not largely apparent in the training approach. Time will tell if the new decentralized training regime in England and Wales can meet expectations for a more community-savvy police service (see the next section). Because the training program was implemented nationally only in April 2006, it is still too early to assess its effectiveness [Rogers and Lewis, 2007].

If training does not yet show strong signs of changing to meet the new community policing ethos, what about individual performance evaluations? This would be another area where the institution could adapt to the ideological goals of community policing by formally assessing how well police officers demonstrate the necessary skills or perform relevant tasks. Lilley and Hinduja [2006] argue that many police forces in the United States are indeed modifying their appraisal processes to take community policing into account. Traditional appraisal schemes usually measure the more easily quantifiable side of policing (e.g., arrest rates, number of crimes solved, number of complaints lodged by the public). In this way, supervision and appraisal can be done at a distance, through indirect indicators, which are less resource intensive. This can mean that police officers tend to avoid certain actions that may look bad on an appraisal, but this is not the same as engaging in high-quality policing. Appraisal schemes that do take community-policing methods into account will look for ways in which officers employ a problem-solving approach and work in quality-of-life issues, rather than just use law enforcement methods. They would also emphasize independent thought as well as good teamwork. Lilley and Hinduja [ibid.] conducted a survey of over 400 police organizations in the United States to ascertain if the preceding was indeed happening in officer evaluations. The results paint a mixed picture: while police agencies that embrace a community-policing ethos do indeed show a greater appreciation for innovation in their officers (such as through public speaking, leadership, or creativity), all organizations surveyed rated this as less important than such more traditional factors as avoiding trouble and following agency norms. In addition, community policing agencies have not reduced their use of law enforcement statistics in measuring officer performance; they have merely added more qualitative measures to the assessment process. This suggests that even in those police agencies that embrace community policing, the traditional policing methods and ethos have not diminished to the extent that they are devalued in the appraisal process.

Lilley and Hinduja [2006] are unsure if the practices result from organizational resistance or more from the administrative officers' lack of motivation

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to significantly alter the appraisal system. Pino and Wiatrowski [2006] argue that, for whatever reason, few police organizations in the United States have truly embraced the overall organizational change that community policing invites, and not much other than the status quo is a result. This may mean that any significant changes to the police institution to bring it more in line with the community-policing ideology (such as in training and appraisal) will be difficult to achieve. Pino and Wiatrowski feel that this is happening in spite of dramatic organizational changes in other segments of the public and private sectors. Even if individual officers can overcome the usual cultural resistance to community policing—such as seeing it as social work, middle managers' fear of losing authority, or conflicts with established expectations of police work—the organization itself does not always change in ways that fully support officers in their community work by, for example, providing adequate resources for it or valuing it in performance assessments [Chappell, 2007]. To truly embrace the ethos of community-oriented policing, the entire institution needs to change to one oriented around the community it serves, and so far this does not seem to be happening in the United States [Skogan, 2006; Pino and Wiatrowski, 2006; see also Manning, 2007]. Thus a picture emerges where community policing either is sitting alongside the traditional model of policing, and is often in conflict with it, or is merely providing window dressing for the continued status quo.

17.4 Neighborhood Policing

As mentioned earlier, community-oriented policing has been in practice in the United Kingdom for a number of years. However, since the Police Reform Act of 2002 the central government has given it a new impetus, a new theoretical underpinning, as well as a new name. Could this be enough to end the mere lip service often paid to COP (as seems to be the case in some areas of the United States) to make it truly an integral part of policing, the "golden thread" that runs throughout what the police do [Herrington and Millie, 2006]? This next section explores some of the literature produced so far on this development.

Since the mid-1990s, overall levels of recorded crime have been falling in England and Wales. It was also just before and during this time that the police adopted their New Public Management approach to policing that put "efficiency and effectiveness" to the fore. The result was that such volume crimes as burglary and theft, for example, were prioritized because they would produce the more easily measured and quantifiable results, thus meeting the government's demands for a reduction in crime and an increase in accountability. While this seems to have been a success in terms of the crime rate, it has also meant that relationships with community members

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were not high on the police priority list. Since that time when crime rates began to fall, a new factor was on the increase: fear of crime. The disparity between actual recorded crime levels and the perception the public had of crime is called the "reassurance gap" [Herrington and Millie, 2006]. This propelled the government into action, and in April 2003 it launched the National Reassurance Policing Programme (NRPP) in England and Wales.* The program ran for two years, and its main objectives were to improve public confidence in the police while reducing the fear of crime [Fielding and Innes, 2006]. Integral to the reassurance project was a focus on "signal crimes," a perspective developed by Martin Innes and colleagues at the University of Surrey [see Innes and Fielding, 2002]. A signal crime can be anything that causes a person to feel alarmed or fearful of harm or disorder, such as graffiti, drug dealing, or illegal dumping. The events or objects that become signals to a person do not necessarily bring about further or worse crimes (as is the premise of the "broken windows" theory of Wilson and Kelling [1982]; see the later section on zero tolerance policing); they can, however, bring about changes in the person's behavior to avoid harm. Signal crimes do not necessarily signal the same kind of danger or disorder to all people, and thus the importance here is how events are *interpreted* and *acted upon*, rather than on their ability to further increase the crime rate in an area. This leads to the importance of consulting with local areas to ascertain which events or objects are signals for them.

Reassurance policing as it was developed for the NRPP had reassurance as a core *process* in police work, rather than an outcome in itself. Reassurance was to be the style of policing that officers adopted, helping local areas to address their signal crimes so they felt more secure in their surroundings, felt more cohesive (collective efficacy), and had greater confidence in the police. In this approach, overall security is the master concept. This is in contrast to how a report by Her Majesty's Inspectorate of Constabulary described reassurance [Herrington and Millie, 2006]. In Povey's paper [2001], reassurance is a goal in itself, and by achieving it the public could be encouraged to engage with the police more fully and potentially provide more intelligence and other assistance in reducing crime. By being "visible, accessible and familiar," the police would begin a virtuous circle whereby the more reassured the public felt, the more they would assist the police, the more the crime rate would reduce, and the more the public would feel reassured [Povey, 2001, cited in Herrington and Millie, 2006]. There is thus a subtle difference in these two types of approaches to reassurance—in the former, it is a process; in the latter, an outcome—but only one could win out in the end.

* Scotland and Northern Ireland have their own separate policing arrangements, but as yet they have no centrally organized community-policing programs, such as those to be described for England and Wales.

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Toward the end of the NRPP, its five core elements were modified slightly from their original text to include a specific mention of tackling *antisocial behavior* and a suggestion that tackling disorder is *additional* work. These suggest a narrowing of the scope of reassurance policing so that it is no longer based purely on the signal crimes identified in local areas and, thereby, is not a golden thread running throughout all policing work but needs specific allocation of resources of its own. It seems as though national priorities were having an influence on how reassurance policing was to be done. Researchers who assessed the success of the NRPP reported that the police officers involved did not show an awareness of the concept of reassurance as a policing style, instead of being a policing goal. Their respondents often spoke of achieving reassurance with the public, rather than embarking on overall neighborhood security [Herrington and Millie, 2006]. Thus the philosophical underpinnings of reassurance and signal crimes were perhaps being lost to a more general focus on community policing as had been exercised in the past.

When the NRPP came to an end, it was deemed to be a success [Tuffin, Morris, and Poole, 2006], but it was not implemented across England and Wales in exactly the same format as it had been in the trail program. What is now in place is a program of "neighborhood policing." The signal crimes perspective is still named as an integral part of the approach, but the core principles have changed from those identified in Herrington and Millie's work [2006] to the following:

Neighbourhood Policing:

1. Is an organisational strategy that allows the police, its partners and the public to work closely together to solve the problems of crime and disorder, improve neighbourhood conditions and feelings of security.
2. Is managed within mainstream policing activity, integrated with other policing services.
3. Requires evidence based deployment of neighbourhood teams against identified need.
4. Establishes dedicated identifiable, accessible and responsive neighbourhood policing teams which provide all citizens with a named point of access.
5. Reflects local conditions and is flexible and adaptive.
6. Allows the Police Service to work directly with local people to identify problems that are most important to them, thereby giving people direct influence over local policing priorities.
7. Establishes a regime for engaging other agencies and the public in problem solving mechanisms.
8. Uses the National Intelligence Model (NIM) as the basis for deployment.
9. Requires an effective engagement, communication and feedback strategy, and a clear explanation of where accountability lies.

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10. Should be subject to rigorous performance management including clear performance monitoring against a local plan and commitments made to neighbourhoods. [Neighbourhood Policing Programme, 2008]

While there is indeed a continued emphasis on consulting local people and reflecting local conditions, there is also repeated mention of joint working with other partner agencies and working in teams. Emphasis on evidence-based police deployment is clear, as is a commitment at the end to performance management and monitoring. So we can see here a mixture of the original reassurance philosophy of engaging the public and being flexible and adaptable to their needs, but also the New Public Management of policing with evidence-based deployment, working with partner agencies to spread the load, and performance management. This ideological duality is also reflected in the way neighborhood policing is presented in Point 2 as being part of mainstream policing activity, but in Point 4 requires dedicated policing teams. This echoes a finding in Herrington and Millie's work [2006] in that while reassurance was to be the work of all police officers, it was in practice usually left to those with a community role. Nowhere in the preceding list of principles of neighborhood policing is there a mention of reassurance. While the focus of reassurance policing was largely around creating an improved sense of security for communities and reducing the Reassurance Gap, neighborhood policing mentions crime and disorder in Point 1 as a key principle before mentioning feelings of security. It appears that Herrington and Millie's observation [2006], namely, of a narrowing of the focus of reassurance policing toward national goals instead of a purely open-ended approach lead by local communities, continued into the Neighbourhood Policing Programme. We can also note the continued struggle to make community-policing activities fit within or at least alongside the traditional policing model, as evidenced in the United States. Thus the preceding list needs to be seen as more of a wish list than the reality of policing practice, because traditional policing methods do remain. There does not seem to be here a suggestion of altering the entire police institution to one focused on the community first and foremost.

What is perhaps unique to the Neighbourhood Policing Programme in England and Wales and is so far largely absent from other community-policing initiatives is an attempt to integrate its goals into police service performance monitoring methods. As mentioned, Best Value Performance Indicators were introduced and used in the late 1980s and early 1990s to assess if the police service was achieving efficiency and effectiveness as determined by nationally set organizational goals. A BVPI related to "public reassurance and quality of life" was proposed in 2003 [Herrington and Millie, 2006]; but until then, the entire performance assessment program had been geared toward traditional policing goals and methods. In

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2004, all the BVPIs were condensed and renamed Statutory Performance Indicators (SPIs) in a new Policing Performance and Assessment Framework (PPAF) [Flanagan, 2008]. Included in the new SPIs are a measure of "public confidence" (SPI 2) and three "quality of life" measures (SPI 10a–c). Although it is interesting to see a new recognition of reassurance measures, all these indicators are assessed using specific elements of the British Crime Survey [Home Office, 2006]. This is an annual national survey of the public's experiences of crime; and while it is largely regarded as a very valuable tool in measuring crime rates, it does not quite address the more qualitative aspects of reassurance, confidence and fear.* Fielding and Innes [2006] have argued for the importance of qualitative measures of police performance, especially those that capture the opinions of key informants. These are people with a detailed knowledge of life in their community, especially as it has changed over time. Fielding and Innes [ibid.] feel that response reliability is greatly improved if the people targeted are in a position to know about performance under neighborhood policing. These approaches can actually be more reliable than a random survey if done well.

As mentioned, the core principles of neighborhood policing include evidence-based deployment and employing the National Intelligence Model (NIM). These point to the relevance of another type of policing strategy within neighborhood policing, specifically, that of intelligence-led policing. It is to this that we now turn, to discuss what it is and how it can coexist with community-oriented approaches.

17.5 Intelligence-Led Policing

In the early 1990s, the police in the United Kingdom were under increasing pressure to do their work more efficiently and effectively, as has been discussed in the preceding sections. Part of the response to this call came in the form of *intelligence-led policing*. Such policing is designed to be a more proactive approach to policing than what had taken place before. Up until the 1990s, much police work was reactionary, taking each incident in isolation and responding to the particular *crime* in question. In intelligence-led policing, it is the *criminal* who matters first, as crimes do not always happen in isolation from each other and criminals can work in networks. It was theorized that by taking a more systematic approach, where certain people

* The PPAF system is soon to be replaced with the Assessment of Policing and Community Safety (APACS). This will measure the performance of all the public sector agencies involved in community safety under one system and is expected to include more qualitative measures, a lack of which is a criticism of the PPAF [Flanagan, 2008].

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are investigated for their criminal activity, not only could more crimes be detected and cleared up but also future crimes could be prevented. A small number of offenders account for a large number of crimes, so this would be a far more efficient way to address crime. The idea is to look at offending patterns and so assemble as much "intelligence" as possible about certain offenders before police action is taken. That way it can be targeted far more "effectively and efficiently" [Tilley, 2003]. As with other police innovations, this is the intention behind this method. As we shall see later, it may not be the reality.

In order to ensure that there is consistency in the approach to intelligence-led policing across the United Kingdom, the National Criminal Intelligence Service developed the National Intelligence Model (NIM) on behalf of the Association of Chief Police Officers. It has been rolled out to all police forces in England and Wales since April 2004 and is also being introduced in Scotland. It is primarily a tool of law enforcement, with a focus on criminals and their crimes and disrupting criminal networks [Tilley, 2003; Maguire and John, 2006]. There are three main levels at which the NIM works:

- Level 1, covering local issues, including the whole range of categories and levels of crime, notably volume crime,
- Level 2, covering cross-border issues, where crime issues cross jurisdictional borders and where intelligence needs to be shared, and
- Level 3, covering serious and organized crime operating on a national or international scale. [Tilley, 2003:322]

Thus all types of crime are included in the model—it is not intended just for volume crimes or just for organized crime. At each level is a Tasking and Coordinating Group (TCG), which, using advice from intelligence units and data from analysts, allocates appropriate resources. It is here that the main police business takes place, and the TCG is also responsible for achieving the necessary outcomes. The NIM is a rather complicated model, so rather than go into great detail on how it works, here I quote a helpful summary:

> [T]he Model splits policing into the two overarching fields of core policing "business" and its required "outcomes." The link between them is the Tasking and Coordinating Process. Tasking and Coordinating operates in two mutually dependent modes, strategic and tactical, and is informed by four key "intelligence products." These, in turn, are based upon nine "analytical products" (or techniques). The key resulting driver is the control strategy, which is addressed through the tactical menu (or set of operational responses). This general structure is replicated at three distinct Levels of policing: Level 1 (local), Level 2 (cross border) and Level 3 (national/international). Mutual dependence is … apparent, with priorities set at each level ultimately influencing those at the others. [Maguire and John, 2006:73]

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Much of the NIM is oriented around traditional, enforcement policing methods. For example, the tactical menu includes managing specific hotspots, targeting specific offenders, or investigating a series of crimes. It also includes, however, using such preventative measures as community action programs [Tilley, 2003]. Community intelligence is acknowledged to be one type of intelligence that can be fed into the model, and this is obtained from the general public when they report what they know to the police [Maguire and John, 2006]. As Hughes and Rowe [2007] have pointed out, community policing and intelligence-led policing used to be at odds with each other, in that the former was seen as a distraction from "real" policing, and the latter was seen as a more efficient and sophisticated policing method. However, since the terrorist attacks in 2001, the local and the global are increasingly viewed as linked. Local information can have an important relevance for national and international events. Thus the police are careful to ensure that all three levels in the NIM influence the others and that gains in community intelligence made through improved community relations with the police are fed into the NIM, wherever relevant [ibid.].

Because intelligence-led policing is closely concerned with efficient use of police resources and deployment, it was easy to develop such an approach into a management tool as well, to be used across the entire police organization. Intelligence-led policing was intended to be applicable to *all* police officers and *all* areas of police work, not just to specialist units. This means that the police work that stems from intelligence-led policing does not necessarily have to be enforcement oriented or geared toward traditional policing methods. Indeed, if intelligence generated about an area identifies a problem that needs to be solved, community action or partnership approaches may be better suited to the task. This shows that while intelligence-led policing was designed to be proactive in nature, it does not have to be and in some cases should not be. Thus one cannot assume that proactive police work and intelligence-led policing are the same thing [Maguire and John, 2006].

However, this distinction seems to have been lost on some officers involved in intelligence-led policing. The NIM is associated with intelligence-led policing and therefore, by association, to proactive investigation methods, which are the preserve of specialist investigation units. Instead of becoming a tool by which the entire organization could do its business more effectively, it is seen as an additional method and an imposition. During the time when the NIM was first introduced, reassurance policing had already begun, and it appears as though these methods were initially seen to conflict. As discussed, however, reassurance policing's heir, neighborhood policing, should be based on intelligence gathered from the community. It can also provide intelligence to be fed into the NIM, so the two methods are not intended at all to be competitive [Maguire and John, 2006].

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As discussed earlier, a second development in policing in the early 1990s was the move toward New Public Management, directed by performance indicators and focused on volume crimes (low-level crimes usually, such as burglary). There is an important difference in philosophy between this and intelligence-led policing. Volume crime encourages the police to work on crimes that are likely to produce a good "result" and clear up as many cases as possible with as few resources as possible. Thus prolific offenders who are more difficult to catch would not be pursued, as they might be in intelligence-led policing. This suggests that volume crime is more concerned with quantity (and meeting performance targets) than quality in intelligence terms. It also brings a return to reactive policing methods, where volume crimes are investigated independently of each other. Efforts are being made, however, to link volume crime approaches to the NIM. For example, by using intelligence to identify "crime series," offenders can be charged with as many crimes as possible, as can their co-conspirators. However, nationally set performance indicators do still hold a strong influence over senior police officers, and research suggests these may at times influence how the Task and Coordinating Group sets its priorities. Some actions taken under the NIM would not show up on performance indictors, and there is thus a risk that politics rather than intelligence could, at times, dictate policing [Maguire and John, 2006].

Other problems have been identified with intelligence-led policing, besides perceived conflicts with community and volume crime methods and performance indicators. Generating intelligence itself can be problematic, in addition to keeping that flow of information coming. Police officers are still involved in reactive policing because they must respond to crimes as they are reported. This does not always leave a lot of time for proactive work. In addition, some of the roles and activities that stem from intelligence-led work may be less attractive than other, more reactive ones. It is still too early to know if the NIM has been successful, but it does have a number of inherent barriers to overcome [Tilley, 2003]. However, Tilley argues that intelligence-led policing may come to sit better with the more traditionally minded police officers than initiatives like neighborhood policing. In its most narrow interpretation, intelligence-led policing is primarily concerned with enforcement, arrest, and incarceration of offenders. More fuzzy concepts such as economic deprivation or low social capital do not come into play, and the offender is cited as the main root of the problem. The police as "intelligence led" can paint a flattering picture of their work, one that the public is likely to embrace. The police are hard on criminals, but especially the worst and most prolific criminals. However, as Tilley [ibid.] reminds us, this does not mean that it is necessarily a better way of dealing with crime. Enforcement alone is not always the best solution [Bittner, 1967], and there is also the ethical issue that some covert methods employed to gather intelligence might disproportionately impact on privacy.

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The NIM was designed to avoid the narrow interpretation of being intelligence led. It is, in fact, a business model for the entire police organization and can include community input as well as that from partner agencies; it can also focus resources on longer-term projects to solve community issues. There are efforts underway in some areas to join the work of Community Safety Partnerships (of which the police are one of many members) with that of the NIM. Thus, strategic planning could reflect the fears of communities, which are often focused on very low-level and isolated incidents. At the moment, however, this is more of an ideal picture than the reality of police work. There is no guarantee that the NIM will be used to its full potential. Furthermore, the aforementioned problems and prejudices toward the NIM within the police do still exist [Maguire and John, 2006].

17.6 Zero Tolerance Policing

The theme of being hard on criminals continues in the next policing method to be considered. While there has been some attempt at implementing zero tolerance policing in the United Kingdom, the United States has shown far greater interest in the approach. The primary and oft-cited example of this comes from New York City and its dramatic fall in recorded crime, especially homicide, in the 1990s. The mayor, Rudolph Giuliani, and the chief of police for the NYPD, William Bratton, had enthusiastically embraced the broken windows theory of Wilson and Kelling [1982]. This theory stipulates that small acts of disorder, such as a broken window, can invite further acts of disorder if they remain uncorrected (more broken windows). Increasing numbers of small acts of disorder will eventually lead to greater acts of disorder (graffiti, vandalism) and then to serious crime (drug dealing, car theft), resulting in the demise of a neighborhood or other area in terms of its social control and security. As the public grows increasingly fearful from the small acts of disorder, this leads them to use public areas less, which invites further acts of disorder and crime because informal social control is disappearing. The New York policing method developed in line with this theory was not labeled *zero tolerance* as such. The original idea was for "quality-of-life policing," but it has inextricably become known not only as zero tolerance policing but also as the epitome of this method, even though Bratton never used this term himself [Newburn and Jones, 2007]. Some of the main elements in the New York method are

- Vigorous law enforcement responses to minor crime and disorder
- Use of civil remedies against those perceived to be involved in criminal activities

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- Enhanced accountability, using COMPSTAT,* of local police managers for crime and disorder in their areas
- Public target setting in relation to crime reduction
- Conspicuous use of the media as a public relations tool on behalf of the police and policing strategies
- Aggressive enforcement action against street crimes [ibid.:226]

What led to the label *zero tolerance* being applied here was the first point—aggressive policing of such minor incivilities as begging, public urination, or fare dodging. The police "cracked down" on this kind of behavior in a way that reflected zero tolerance for it in the hopes that it would prevent worse disorder or crimes from happening [Newburn and Jones, 2007]. This, combined with the other methods listed, is credited with cutting the felony rate by half and dropping the homicide rate from 2,245 in 1990 to 767 seven years later [Dixon, 1999]. It would appear on the surface that zero tolerance was a success, and it was widely heralded as such in the media at the time [Manning, 2001].

Dixon [1999] warns against reading too much into this, however. First of all, at the same time there were significant crime rate drops in other U.S. cities, which did not use zero tolerance policing methods. Of the 25 largest U.S. cities, 17 reported a fall in their crime rates, as did 12 of the 17 countries in advanced industrial development. While it is not certain why these falls happened, what is clear is that zero tolerance policing was not the main cause. Second, as the list of elements making up quality-of-life policing indicates, the police in New York were not just using new zero tolerance methods. Many other techniques were being implemented. Officers in the New York Police Department had been suffering from an uncertainty about the extent to which they should use their powers for minor offenses prior to Bratton's arrival as chief of police because they feared corruption allegations, breaches of freedom of speech, and inadequate supervision. It can be argued that all these changes in policing contributed to an improvement in morale and to an overall reform in terms of laziness, corruption, and incompetence in some areas. This newfound motivation for police officers to do their job may also play a part in the dramatic change in crime in New York [ibid.].

Besides the foregoing reasons for not attributing too much credit to the New York interpretation of zero tolerance policing, there is another important drawback to the method. "Crack down" policing methods have been used before, and they are not always received well by the community in question. The United Kingdom experienced widespread disorder in 1980–1981, which

* COMPSTAT gathers data on calls for police service and levels of police activity. This system can be taken down to the precinct level and can make its analyses available within about a week of the data being collected. It is used as a management tool as well to determine where the police are, and perhaps should be, focusing their resources [Moore, 2003].

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was sparked by an intensive program of stop and search by the Metropolitan Police in a predominately black area of London. The United States experienced similar problems in the 1960s after a period of intensive policing. Even if disorder does not arise, intensive policing methods can have a very detrimental effect on relationships between the police and the communities they serve if these methods are unwelcome [Dixon, 1999]. This runs counter to the ethos of both community policing and intelligence-led policing, where the public is a partner and key informant for the police [Taylor, 2006].

It is to a fuller examination of the relationship between zero tolerance policing and community policing that we now turn. The broken windows theory was pitched as a type of community policing. By targeting nuisances and disorder that disrupt the quality of life of residents, the police could help improve community life, social order, and the local environment. This would enable crime control and social problem resolution to be achieved through the same policing method [Brogden and Nijhar, 2005]. However, zero tolerance is ultimately a law enforcement approach to policing that usually takes an inflexible view of low-level disorder and incivilities. It is an aggressive policing method done in the name of, but not in the spirit of, community policing. If we look at the New York experience in particular, it primarily involved new policing tactics, strategy, and technology and not a great deal of community consolation or partnership working [Dixon, 1999]. If we also consider the negative repercussions zero tolerance policing can have on police-community relations, it is hard to see how this could ever be interpreted as a type of community policing.

Despite these problems with zero tolerance policing, it can be an attractive concept for police managers. It can be a method for meeting some performance targets and indicators in a very dramatic and direct way. As we have seen in earlier discussions, demonstrating efficiency and effectiveness is an ongoing pressure for police managers, and one they are highly motivated to meet. It may come as a surprise, then, that there have been very few attempts to implement zero tolerance policing in the United Kingdom. One attempt took place in 1996 in the King's Cross area in London, where the police took a harsh approach to both minor and major infractions of the law and incivilities for a six-week period. The idea was to "clean up" the area. A second attempt at zero tolerance policing occurred in Hartlepool at around the same time. Detective Superintendent Ray Mallon wanted to protect the "decent" and "respectable" citizens and so advocated an aggressive response to any low-level nuisances (Newburn and Jones, 2007:227]. Other than these, zero tolerance policing has not been seriously implemented in any UK police force. The lure of the "New York miracle" can be strong, but it is important to remember that New York is not indicative of the rest of the world. First, when zero tolerance was implemented in New York, the population was not only highly criminalized but also highly armed. Therefore, taking police action

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against a person for a minor infraction had a good chance of revealing some more major ones (such as an illegal firearm). This will not be the case in all countries. New York also had a staggering homicide rate, which is also not the case elsewhere. As was mentioned, the police in New York prior to the introduction of zero tolerance felt impeded by laws regarding personal freedoms and civil liberties. Police officers in other countries have more power to stop and search members of the public than this, and so they do not feel restricted in their street policing in quite the same way [Dixon, 1999]. Thus zero tolerance policing has to be understood in the context in which it developed—the United States, and New York in particular—and therefore it cannot be viewed as a magic fix for all policing problems.

What has proven to be a useful aspect of the zero tolerance era is the language it uses. While the zero tolerance policing policies themselves did not transfer well to the United Kingdom, the terminology and the symbolism they employ did. Prior to their election in 1997, the Labour Party made use of the term *zero tolerance* in reference to their approach toward failing educational standards and performance. The term *zero tolerance* also surfaced in a general way to paint New Labour as tough on crime, especially when discussing their policies on antisocial behavior in the 1997 manifesto. It has also been used in reference to handling abuse of public sector workers and discipline in schools. The fact that it can be used in so many policy arenas shows the flexibility of the concept, as well as its simplicity and vagueness. It is appealing because it touches on contemporary concerns with disorder and lawlessness. But as any police officer could attest, zero tolerance in its truest form is impossible. There is no practical way to police every single infraction that occurs in an area or institution. Nor is this desirable. Therefore, the terminology appeals more to politicians than to police officers and is very significant for its symbolic value. It conveys a mood, or policy narrative, rather than a realistic operational plan. It is more a form of *expressive* crime control, rather than *effective* crime control. Its power is in the image it conveys, rather than any actual police action [Newburn and Jones, 2007].

17.7 Problem-Oriented Policing

One final policing method must be discussed, and this also touches on the issues of police effectiveness and efficiency. Like many of the other methods discussed so far in this chapter, it was an outcome of the call for an end to reactive policing that treated all incidents in isolation from each other. Problem-oriented policing (POP) is often assumed to be the same as community-oriented policing, but they are different in significant ways.

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The main underlying principle in problem-oriented policing is to look for the root *cause* of problems in an area that result in multiple calls to the police. If the source of the problems is addressed, then there will likely be an overall reduction or end to calls for police services. These calls can seem unrelated to each other, but they may all stem from the same basic issue. For example, if an apartment complex is experiencing physical and social deterioration, there may result multiple incidents such as burglary, vandalism, antisocial behavior of residents, or maybe even drug dealing. If the police stop reacting to each incident in turn and instead work with local residents and the building's owner or manager to improve the conditions, then all the seemingly unrelated incidents might end. This makes for a more efficient use of police time and resources [Brogden and Nijhar, 2005]. There has been a increasing sense in recent years that the demands on the police far exceed their resources, and problem-oriented policing is seen as one way to address this issue [Tilley, 2003].

The key difference here between problem-oriented policing and community policing is that the former focuses on the *problem* to be solved, whereas the latter focuses on the *means*. Problem-oriented policing takes each situation in isolation and uses a range of options for solving the identified problems. Community policing is, instead, a forcewide agenda that, in theory, at least, is the preserve of all officers and often employs the same kinds of approaches to all situations (e.g., public meetings). The community must be consulted, and the police are to be lead by their concerns. Thus the process by which problems in an area are identified and solved through community policing is vital because it can improve police-community relations and give residents a greater sense of security. This is as much the goal of community policing as addressing the specific community concerns is. In POP, the police may or may not consult or involve local residents in the problem identification and resolution [Brogden and Nijhar, 2005].

Herman Goldstein, the main architect of problem-oriented policing in the United States, felt that the traditional model of policing had serious shortcomings. He stressed the need for police officers to use their discretion and imagination, as well as community resources and data analysis, to arrive at more effective ways of engaging police resources. Goldstein argued that the police had become more concerned with procedure and had lost sight of what policing was meant to be about. He describes the purposes of policing as being to

1. Prevent and control conduct threatening life and property
2. Aid crime victims and protect people in danger of physical harm
3. Protect constitutional guarantees
4. Facilitate the movement of people and vehicles
5. Assist those who cannot care for themselves

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6. Resolve conflict between individuals, between groups of between citizen and their government
7. Identify problems that may become more serious for individuals, the police of the government
8. Create and maintain a feeling of security in the community [Tilley, 2003:318]

Goldstein argues for a systematic approach to policing to achieve these aims whereby relevant problems in a community are researched and understood and responses are targeted according to this analysis. Enforcement is only one method that can be chosen, but often it fails to prove effective in the long term as a way of solving community problems. Of course, identifying a problem is a key part of the process, and Goldstein felt that problems would have patterns to them, which can vary widely. They can involve repeat offenders, repeat victims, repeat locations, high-demand products, or even a particular seasonality (which can be anything from time of day to time of year when problems are more likely to occur) [Tilley, 2003]. Each problem needs to be understood on its own merits and solutions chosen that are the most appropriate to each one.

Policing tools have been developed to make the various stages in the problem-oriented policing approach more systematic and accessible. The main tools are the Problem Analysis Triangle (PAT) and the SARA process, which stands for Scanning, Analysis, Response, and Assessment. PAT is used to identify a problem, and SARA covers the entire problem-oriented process. In PAT, the crime triangle comprises an offender, a victim, and a location (or related variations such as a class of victim or source of complaint). These three features of a problem are analyzed to detect where a change might be made in one of them so as to solve the problem. In SARA, scanning identifies a problem; analysis brings about a deeper understanding of the problem (which may involve the use of PAT), which informs the subsequent response. The whole process is then assessed for its effectiveness. The steps in SARA are not always as clear-cut as this, but the approach provides the police a general framework in which to work [Tilley, 2003].

While problem-oriented policing has been embraced in both the United States and the United Kingdom, there have been some difficulties in its implementation. It shares with community-oriented policing the perception that it is not real policing because enforcement is not a preferred POP method. Because of the cultural value placed on traditional, enforcement methods, the data police gather about crime incidents tend to have this in mind and are not geared toward an analysis of longer-term crime trends [Tilley, 2003; Cordner and Perkins Biebel, 2005]. Thus the data themselves can be problematic. This then makes the subsequent analysis difficult, which is an important part of the SARA process. Like the other policing methods discussed earlier, problem-oriented policing suffers from external pressures

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to meet performance targets, which often work against the philosophy of POP. For example, because enforcement is not always an ideal way to address an identified problem, there will be no subsequent arrest or crime "cleared up." This leaves vital performance targets unmet. Police also report having little time to do problem-oriented work because they are still an emergency service and have to respond to calls when they come in (but this, of course, was one of the reasons for developing POP in the first place). A final obstacle to implementing problem-oriented policing is the fact that it requires a serious change in the way the police operate, a change that takes commitment and resources and so cannot happen overnight. If there is no concerted effort within a force to bring in a problem-oriented approach, it will not achieve significant results [Tilley, 2003]. Cordner and Perkins Biebel [2005] found in their research in San Diego that police officers tended toward small-scale problem solving, favoring enforcement methods, instead of toward the intended comprehensive problem-oriented policing because the distinction had not been made entirely clear to them [see also Braga and Weisburd, 2006].

While problem-oriented policing does experience many barriers within the police service, the competing policing philosophies described in this chapter are not necessarily one of them. As the Lancashire constabulary has demonstrated, the POP process they had been promoting could be successfully linked to the National Intelligence Model. Both stress the importance of gathering data about an issue or problem over a comparatively long term to better understand it and locate the best solution [Maguire and John, 2006]. As mentioned, problem-oriented policing is often confused with community-oriented policing because they can involve similar methods, though they do not always do so. Zero tolerance policing, however, will not sit well next to POP, for the former is heavily focused on short-term enforcement methods.

17.8 Conclusion

This chapter has considered some of the recent innovations in policing methods in the United Kingdom and the United States, most of which are designed to direct the police away from traditional, enforcement-oriented approaches. The most established and influential is community-oriented policing. It has been employed in various forms, not only in these two countries, but across the globe since its first inception in the 1970s [Brogden and Nijhar, 2005]. The other policing methods examined here all bear some relation to community-oriented policing. Neighborhood policing is currently the driving force of policing in England and Wales, where it represents a very systematic and heavily resourced approach to police reform, in contrast to the patchy and sometimes underresourced community-oriented policing in the

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United States. This method involves not only police officers but also the new breed of community support officers (CSOs) hired and trained specifically to work alongside the police in the community. These officers are a response to the eternal call for more "Bobbies on the beat," albeit with less power and authority than a fully trained police officer (and considerably cheaper). Police officers, CSOs, and other actors from local authority agencies all form part of a Neighborhood Policing Team, which as of 2008 should be present in every neighborhood of every police force in England and Wales. Time will tell of the significance and effectiveness of this endeavor.

Intelligence-led policing, while still being rather enforcement oriented, can support community-policing methods in providing evidence on which action can be taken. Community intelligence, in turn, is one of many kinds of information on which this method relies for combating other kinds of crime. Problem-oriented policing also relies on effective data gathering, and such policing is usually community focused and sees enforcement as only one option among many. However, in POP, direct engagement with a community experiencing a problem is initiated only if it is deemed relevant to solving that problem. Thus these two methods can be complementary to community and neighborhood policing, but this is not always the case. Zero tolerance policing was initially viewed as a type of community policing in that addressing small signs of disorder or crime in a neighborhood would ultimately lead to a better quality of life for the local residents. In practice, this method has tended to be heavily reactionary and enforcement driven, and it actually risks doing damage to police relations with a community, rather than improving them.

While police officers themselves have, or are encouraged to have, a great deal of discretion in how they undertake these policing methods, the biggest influence on the manner in which these methods are enacted and ultimately on their success seems to be performance indicators and management systems (New Public Management in the United Kingdom). At every turn we have seen how the philosophies and theories behind these policing systems have been undermined by, or at best influenced by, centrally set performance targets. In some cases, this is not necessarily problematic—zero tolerance policing is only marginally a community-oriented approach and acts very much in the short term, though not exclusively so. But for other systems, orienting one's work toward nationally set priorities is in direct conflict with the underlying ethos of the policing method. Several authors mentioned in this chapter have questioned the wisdom of trying to fit these types of systems within a policing service so heavily monitored by targets. Measures are currently being taken in England and Wales to modify the targets so that some of them cover community methods, but it seems these will still be in the minority. Traditional policing methods offer the best way to meet the majority of performance indicators.

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There is another inherent contradiction in this situation. Although, as mentioned, police officer discretion and creativity are central to many of these policing methods, the methods themselves were imposed from above and usually with very little consultation with the staff who would be enacting them. Many new approaches to policing have been introduced in a rather short timeframe, and it is not surprising that there has been resistance to them from police officers. Research has shown that the police as a whole and as individuals fare better if they have been involved in some way in the decision-making process for the organization [Sklansky, 2007]. Not only do they seem to be happier workers, but also the force has increased productivity and there are less citizen complaints. Wood and Marks [2007] have conducted research into bottom-up reform in the police and show very positive and promising results.

Although the intention behind many of these new policing methods is admirable (moving toward proactive and/or citizen-led policing), it seems that their implementation has some serious problems: multiple and overlapping methods imposed from above and in conflict with powerful performance targets. While no one method has emerged as the best way forward—nor can any of them claim to have been successfully implemented as yet—it seems that most of them can work together if the effort is made to do so. It also seems that engaging police officers directly in the strategic decision making would support and encourage them in their operational decision making as well. All this requires a comprehensive and dramatic commitment to change from the police organization and central government, which as yet does not seem to be the case.

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The European Experience of Crime Prevention

18

ROSSELLA SELMINI

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18.1 Introduction

For many years, crime prevention has been one of the most relevant subjects in international criminological debate and in the literature about crime control policies in many Western democracies. It has also become a current political issue and a key topic on the political agenda of many European governments, which over recent decades have focused on the development of discourses and practices that clearly show the "need to shift resources and focus towards crime prevention, rather than focusing on more reactive and coercive forms of policing and criminal justice" [Stenson and Edwards, 2004:209]. This process has occurred in slightly different ways, and at different times, almost everywhere in Western, and now also Eastern, European countries since the late 1970s, with some differencies mainly related to local cultural traditions and different social, legal, and political contexts.

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The issue is still interesting and important to understanding changes in crime control policies, but not only. Talking about crime prevention today often means to talk about social change, transformation of urban contexts, and conflicts between different social groups, as well as between different institutional actors, technological development, and urban planning. Crime prevention policies are now, more than in the past, connected to various general social dynamics and changes external to the penal world; they play an important role in the increasing importance of the different forms of local governments' dealing with crime [Crawford, 1997].

This chapter presents a general overview of some issues related to crime prevention and its changes, focusing on the European context. After a brief analysis of the emerging interest toward new forms of crime prevention and their main changes in the past decades, the discussion then takes into consideration the most important typologies of crime prevention, conceptually originated in the criminological context but now well established also in the institutional and political ones.

A comparative analysis of the development and changes of crime prevention in some European countries, of the emerging European models, and some final remarks about current changes and open questions conclude the chapter. The fact that these changes about crime prevention have occurred, in recent decades in many Western democracies with, at least apparently, many common features raises interesting issues for a dynamic comparative perspective of crime prevention.*

18.2 Defining Crime Prevention and Its Borders

Borders have always been a relevant conceptual issue in analyzing crime and criminal policies. For what concerns crime prevention, its definition, and the broadness of its extension have long been open questions. How can prevention be distinguished from repression? How can the features of a "new" crime prevention idea be distinguished from a more traditional one? And, finally, how to distinguish among different practices of crime prevention?

* That ideas, concepts, and practices about crime prevention and their changes show common features in many different contexts across Europe is a further example of how criminal policies "travel" around the world. Starting from those common features, described in the next pages, many European countries have adopted (and they have adapted to) the new ideas about crime prevention, reshaping them in a way that better fits in the local context, its needs, and its features. This process of adaptation is influenced by the convergence of many structural and cultural factors and also gives rise to local differences in the development of crime prevention programs in different countries [Newburn and Sparks, 2004].

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Most works about crime prevention of recent decades start from these questions and remark on the vagueness of the concept in both its elements, "crime" and "prevention":

> If we were to unpack the concept of crime prevention, we would immediately recognize that crime itself is by no means a precise term, covering a host of qualitatively and quantitatively different acts that, as befits social constructs, vary across time and space.... Prevention is an uncertain business, then, and through its sheer diversity an extraordinary unhelpful word. [Gilling, 1997:2–3]

Also:

> But what we exactly do we mean by prevention? The policies, programmes, experiences are so diverse, their aims so varied, at times so uncertain, their results so difficult to judge.... Attempts have been made in the scientific literature to provide a definition but they rarely have been conclusive, much less convergent. They repeatedly founder on the controversies inherent in the very notion of crime, and at times do no more than reproduce these points of contention. [Robert, 1991:5]

Conceptual difficulties in explaining and defining crime prevention increased enormously after changes in its use. Vagueness, then, is seen mainly as the consequence of the enlargement of the concept to embrace a wide and disparate set of practices that sometimes overlap, sometimes coexist, and sometimes are alternatives to more traditional strategies of crime control and that may be part of different public policies. The more the concept is vague, the more it has become widespread in many different fields of public policy, the more it permeates public discourses, and the greater is its political appeal [Rochè, 1999:153].*

This expansion and consequently increasing vagueness of the concept of crime prevention have been the object of thoughtful analysis in sociocriminological literature in recent decades, stressing, in the continental European context, the difference of so-called new crime prevention from traditional types,† only in implicitly ascribing to the traditional approaches a view of crime control through the criminal justice instruments.

In October 1989, the first Conférence Européenne et Nord-Américaine sur la Sécurité Urbaine et la Prevention de la Délinquance was held at Montréal,

* In Gilling's words [1997:9], "What is scientifically problematic may conversely be politically useful."

† The concept of new prevention and its main features has been promoted and fully analyzed, in the European continental context, especially by Robert [1991]. In the same decade, other defined new crime prevention as "modern" [Sack, 1997:157] and also as "functional" [Gilling, 1994].

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followed in November 1991 by the International Conference on Urban Safety, Drugs and Crime Prevention in Paris. Both events had a great impact on the story and the development of European theoretical thought, above all on policies and practices concerning crime prevention. It was in these conferences that the main distinctive features of the so-called new crime prevention were outlined, discussed, and then disseminated in many contexts.

New crime prevention was the name given to a whole range of measures whose main distinctive feature was that of being, or supposing to be, alternatives to traditional criminal justice prevention measures.* Under the label of crime prevention policies, in fact, we can find now a wide range of practices and measures that share the attempt to avoid the development of criminal behaviors or victimization, or the occurring of criminal events, or reducing the incidence of crime, and also reassuring communities and fighting fear of crime, without any direct impact on objective crime events.

The new features of crime prevention have been mainly stressed in the continental context—and above all in Italy [Baratta, 1993; Pavarini, 1994], in France [Robert, 1991], and in Germany [Sack, 1997; Aden, 2001]—because in these legal contexts it was necessary, more so than in the Anglo-American legal system, to single out a new form of prevention that could clearly be conceptually distinguished by those of the penal system. In the British context, what emerged during the 1980s and 1990s was not the idea of new crime prevention but mainly the connection of crime prevention with community safety and, more generally, "safety from crime" [ALA, 1990:3].

In all European contexts, such new distinctive features of crime prevention were quite similar, and they can be summarized as follows:

- Increasing the actors entitled to involvement in crime prevention, as it is well expressed by the increasing powers and responsibility of local governments in many European countries (*institutional* enlargement) and by the attempts to involve in many different ways individuals and citizens in responsibility for crime prevention (*social* enlargement).
- As a consequence of the increase of actors, a fragmentation of the decision-making processes and increasing conflict among the different actors. The fragmentation of actors raises everywhere the need for coordinated action and the search for partnership that soon becomes, and still is, one of the key issue of crime prevention [Gilling, 1994].

* In the words of the responsible scientific committee that organized the aforementioned Paris conference, "Prevention aims to reduce the frequency of certain types of behaviours which are punishable by the law, but also 'incivilities' which are not necessarily classified as criminal offences—by resorting to solutions other than imprisonment" [Robert, 1991:5].

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- Increased attention for crime victims, involving a cultural and practical shift toward using prevention to avoid victimization, not only for preventing the insurgence of criminogenic factors at an individual or social level.
- The enlargement of preventive practices and discourse also to the area of incivilities and disorder, that is, behaviors that are not criminally defined. This change occurred through two different strategies: criminalizing some such deviant behaviors or trying to prevent them to also prevent the—alleged—related crime problems that can affect an area where disorder and soft crimes are already present.*
- The increasing use of administrative instruments to implement crime prevention at a local level and, more generally, the involvement of different kinds of urban policies (urban planning, technology, administrative regulation of public spaces, etc.).

18.3 Crime Prevention and Changes in Crime Control Policies

Most of the works about crime prevention began reaffirming that the traditional criminal justice measures have proved to be ineffective and expensive and have exposed the need to seek different ways to tackle crime at different stages [Rosenbaum, Lurigio, and Davis, 1998:6].

The alleged empirical evidence of the inefficacy of criminal justice in preventing and reducing crime opened the way for the search for new instruments, both in other sectors of the legal system and in the private security market.

The new prevention is meant to be something like a "revolution," according to its supporters—the right answer to a general crisis of the criminal justice system and its traditional interventions. The growing relevance of crime prevention is the result, however, not only of the "nothing works" philosophy but also of many other dynamics and processes characterizing the Western democracies in recent decades. Its definition and new features are, of course, strictly related to the transformation of general crime control policies [Garland, 2001], and they are related to the tensions among, and the rearranging of boundaries in, different fields of the legal system (the penal, the administrative, and the private), as well as to the reshaping and changing boundaries among competencies of different institutions and between the state, society, and the market [Crawford, 1997].

* According to the well-known and widespread hypothesis of the "broken windows" theory.

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In this broader perspective, two main general approaches can be distinguished in the way of understanding changes in crime prevention. The first focuses on the shift from the "welfare-regulatory" to the neoliberal approach, and on how this affects cultures, policies, and practices of social order and crime control [O'Malley, 1992; Landreville, 2005].

The social control policies of the postwar period were, in most of the European countries, led by the national states and their agencies and were based on an idea of crime as a social or individual fault. Crime prevention, consequently, was to be pursued through social reforms and social policies, while penal policies were also pursuing rehabilitative, and not only punitive, goals. The shift toward a new culture and new policies of crime control, which occurred in different periods in the last decades in most of European countries, on the contrary, focused on individual responsibility, on the role of the victim, on different preventive strategies, and on different punishment policies.

Rehabilitation and social inclusion ideals have been replaced, though not entirely, by the so-called actuarial penal strategies [Feely and Simon, 1994]. The attention toward the criminal has been replaced—but, once again, not entirely, as we will see later—by the new role played by the victims, the attention toward causes of crime by the attempt to control crime in a manner to make it compatible with the ordinary urban life [Garland, 1996].

The emergence of new attempts to intervene in crime control policies has also been contextualized in a different perspective, where—without denying the dynamics previously described—prevention and the local nature of safety policies are seen as the favored approach for developing an alternative model of social order. Local policies and cities are considered, respectively, the best instrument and the best site for intervening on crime and deviance issues. In this perspective, the true novelty of crime prevention stands in its being mainly a function of local authorities,* in its being part of new forms of local governance. This, as a consequence, implies the attempt to incorporate social and community organizations in the policy-making process or in its implementation, or in both [Edwards and Hughes, 2002:4], also according to statements of British left realism, stressing the local nature of crime-related conflicts and the importance of finding solutions at a local level mainly grounded on the powers of local authorities and more respondent to citizens' needs [Young, 1992]. In this perspective, all over Europe "taking people seriously" and developing "multiagency approaches" quickly became new key words for crime prevention strategies and also appealing political slogans.

* Opening the aforementioned conference in Paris, Philippe Robert stressed the point in this way: "Mais la grande nouveauté était constituée parl'entrée in scène des responsables municipaux: l'initative de la conference revenait non à des Etats, des professionals de la politique criminelle ou des scientifiques, mais à des federations de collectivités locales.… A travers cette innovation, s'imposait l'idée que la prevention relevait, non pas exclusivement, mais en premier lieu, des responsables locaux" [Robert, 1991:9].

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Recently, Hebberecht and Duprez [2001] offered a similar broad framework for a better understanding of changes in crime prevention, as related to the emergence of new safety policies. In their comparative analysis, they outlined three different "logics of security" that can be summarized in this way: a neoliberal security, based on individual responsibility, on actuarial practices, management, and technology; a social-democratic security, based in the idea of safety as a public good and on crime control policies respectful of collective solidarity and social justice; and a third logic, defined by Hughes and Edwards [2005:24] as "moral-conservative," that strengthens the moral authority of formal and informal control.

In their comparative analysis, some countries (England and Wales, and the Netherlands) are closer to the logic of security with some elements of moral-conservative rationality, whereas others (Spain, France, and Portugal) are closer to a social-democratic approach. The same authors also suggested that these logics have been present everywhere, "albeit the admixtures of these strategies vary from country to country in accordance with the changing political contexts in which they were promoted and challenged" [Hughes and Edwards, 2005:24]. As we will see, the different typologies of crime prevention that criminological thought has been elaborating fit differently in these three different "logics" or "rationalities," but finally they can mix together better than expected.

18.4 Does the New Crime Prevention Imply New Theories of Crime?

Since each response to crime is, or should be, based on a theory about the nature and causes of crime, it is interesting to see if the emergence of a new crime prevention also implies the emergence of a new rationality in understanding crime. At a first sight, crime prevention in recent decades has relied on a well-established international set of theories and also of some commonsense approaches to crime. New on this perspective is, on the one hand, the greater relevance of some theories about crime with respect to others and, on the other hand, the attempt to combine different approaches and explanations of crime. The concept of "integrated prevention" [Hebberecht and Duprez, 2001], widespread mainly in the continental European context, well summarizes this mix of different theories about crime applied to different techniques of prevention.

In contemporary crime prevention strategies, we can find, sometimes mixed in a single, comprehensive preventive program, all three different perspective that are the main framework of criminological theories: individual motivations and predisposition; influence of the structure and the social context; and circumstances and opportunities, together with the rational

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choice perspectives. The theoretical framework of contemporary strategies of crime prevention embraces all these theories and approaches even though, of course, different sets of crime prevention mainly rely on one or another of these theories, as evident later in our analysis of the different typologies of preventive measures. Whereas social crime prevention and community crime prevention are based mainly on the assumptions of the Chicago School about social disorganization and its subsequent developments, including theories of collective efficacy, situational crime prevention is based on the whole set of theories related to opportunities, routine activities, and rational choice, including commonsense approaches like the broken windows theory.

What is finally interesting to note, however, is how many strategies (e.g., situational crime prevention) are now widespread in many central and southern European countries whose ideas on criminology have always been quite distant from opportunity theory and related approaches. In Italy, for instance, this approach to crime prevention has been accepted enthusiastically, without any diffusion of the kind of criminological knowledge on which it depends, namely, the theory of opportunities and the routine activity approach, which apart from the recent interest of some academics in developing these theories [Barbagli, 1995; Savona, 2004] are largely unknown and also unfamiliar to Italian scientific discourse on crime and crime prevention.

Furthermore, many southern European countries, in contrast to Great Britain and the Netherlands, are witnessing the development of many strategies of crime prevention without strong and established research activities and without any scientific evaluation of implemented preventive programs. That traditional approaches have governed their empirical research on crime and prevention has not impeded the spread of the same kind of preventive measures already experienced in other contexts.

18.5 Classifying Crime Prevention Strategies

The attempt to classify the different typologies of prevention has been more successful than the attempt to conceptually define crime prevention. During the last 30 years, both in the Anglo-American context and in continental Europe, a strong body of literature has been devoted to this classification, and the effort of categorizing crime prevention has gradually replaced the effort of defining it.

One of the earliest attempts to classify prevention is the distinction among primary, secondary, and tertiary prevention [Brantingham and Faust, 1976]. Primary prevention involves preventing crime at a very early stage and embraces measures aimed at reducing or eliminating the criminogenic factors present in a social and physical context, or in individuals or groups.

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Secondary prevention embraces all measures addressing groups that are at risk of committing crime. Tertiary prevention aims to prevent recidivism.

This classification recalls, in its first and third types, the classification already offered in European penal thought between general deterrence and special prevention, and it also recalls a distinction quite common in the medical language. A similar, but less successful, classification, based on stages where crime prevention works, has been proposed in the continental European context by Walgrave and de Cauter [1986], based on an analysis of different crime prevention measures taken in Belgium during the early 1980s.

Across time, the early distinction between primary, secondary, and tertiary prevention has been rejected and abandoned as being too related to conceptual models of how healthy policies work [Tonry and Farrington, 1995:2], and possibly for its being useless on a practical basis [Ekblom, 1996:1; Graham and Bennett, 1995:6].

It is, however, still on the basis of those three types of crime prevention that a more successful distinction was proposed at the beginning of the 1990s by van Dijk and de Waard [1991]. This classification represents a further step with respect to the simpler distinction among primary, secondary, and tertiary, thanks to the introduction of two different variables: victims and contexts. In this classification, a new scheme of nine different prevention typologies is outlined, which goes further, for the first proposal is based on the perpetrators of crime. In this respect, van Dijk and de Waard's proposal is more updated and takes into consideration the more general tendencies in crime control policies: attention toward victims of crime (and not only perpetrators) and the importance of places and situations.*

In the 1990s, however, some simpler and less detailed classifications emerged: one mainly based on the distinction between situational, social, and community crime prevention [Graham and Bennet, 1995], and another on a more accurate and complete distinction between law enforcement and criminal justice system prevention, situational crime prevention, developmental crime prevention, and community crime prevention [Tonry and Farrington, 1995].

The main difference between these two classifications is that social crime prevention disappears as such in Tonry and Farrington's proposal, whereas traditional criminal justice system crime prevention is added. The first is a because, the authors state, "developmental and community prevention are often included under the general heading of 'social' crime prevention, but

* A similar, but less successful and thoughtful, distinction among crime prevention measures based on the tripartition of primary, secondary, and tertiary is Lavrakas's scheme [1995], in which the three types of crime prevention are crossed with four "operational contexts": individuals, buildings, neighborhoods, and society.

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we think that they are so different that they should be distinguished" [Tonry and Farrington, 1995:3].

In the literature of the past 15 years, these categories have often been mixed in different ways according to particular European contexts and to the greater or lesser success of one of category with respect to the others. While southern Europe, under the influence of French and Belgian analysis of crime and crime prevention, has recently focused on social and community crime prevention,* the British context has laid emphasis on situational crime prevention, and a whole set of initiatives based on different social and community approaches have often been embraced under the label of community safety [Crawford, 1997].

Few efforts have been made, after the emergence of this distinction, to find news way to categorize crime prevention, and most that have been made are in the same conceptual ambit.

Starting from the definition of prevention as a measure able to produce effects on the mechanisms that lead to a crime, Ekblom [1996] singled out proximal and remote (distal) causes of crime and offered a classification of measures that can have an effect on both. Recently, this classification has been updated [Ekblom, 2005], making the conjunction with causes of crime more evident and then classifying the causes as, among others, criminal predisposition, lack of resources to avoid crime, readiness to offend, resources for committing crime, decision to offend, offender presence in the situation for offending, the crime target, the crime target enclosure, the wider environment, crime preventers, and crime promoters. A list of 11 general preventive mechanisms to address these causes was then offered. However, this distinction in crime prevention simply represents another way of identifying the same conceptual distinction between developmental and situational crime prevention: the first is able to intervene in individual motivations, and the second to intervene in situations and contexts.

Finally, Tilley and others [2004] proposed a simpler classification, similar to the one already advanced by Tonry and Farrington, based on mechanisms involved in policing and criminal justice, situational crime, social intervention, and individual treatment. Before going deeply into the analysis of these different types of crime prevention and, above all, how they have been successful in different European contexts and how they have changed, it is worth remarking that this huge classification effort has not been able to overcome conceptual overlapping between some kinds of crime prevention measures. As we will see better later, some categories—first of all that of community crime prevention—apparently have weak conceptual autonomy with respect to some other measures and sometimes seem to

* But, as we see later, on a practical level it is situational crime prevention that is finally, not unlike in the British context, the most widespread and largely adopted measure of crime prevention.

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overlap with yet other categories. Moreover, some might belong to different typologies. A further ambiguity arises from the difficulty in conceptually distinguishing prevention of crime from prevention of victimization.

18.6 Situational Crime Prevention

Situational crime prevention is mainly based on the idea that intervening in contexts, through a range of mechanisms and simple devices, can effect a reduction in crime and victimization. As is well known, situational crime prevention bases its techniques and their workings on a set of criminological theories broadly termed "opportunity theory" and "routine activities," which Garland [1996:450] defined as the "criminologies of the everyday life." In this theoretical framework, crime is deemed to be, not the result of individuals' predispositions and motivations, but of a series of circumstances and factors that create or increase crime opportunities in rationally motivated authors. Consistent with this idea of crime, situational crime prevention is based on a set of measures, mainly regarding specific forms of crime and usually implying some kind of management, manipulation, and configuration both of physical contexts and of people's attitudes and behaviors.

The most famous theorist of situational crime prevention, Ronald Clarke, stressed, in many different works, the great change represented by the new ways to prevent crime as opposed to the traditional views of what he calls "conventional criminology":

> Proceeding from an analysis of the circumstances giving rise to specific kinds of crimes, it introduces discrete managerial and environmental change to reduce the opportunity for those crime to occur. Thus it is focused on the setting for crime, rather than upon those committing criminal acts. It seeks to forestall the occurrence of crime, rather than to detect and sanction offenders. It seeks not to eliminate criminal or delinquent tendencies through improvement of society or its institutions, but merely to make criminal actions less attractive to criminals. [Clarke, 1997:2]

Despite the fact that situational crime prevention has been presented by its supporters as a new way to tackle crime, most of the measures that comprise it are not new at all. It has already been remarked [Garland, 2000:5] how Enrico Ferri, the early twentieth-century Italian penologist and advocate of sociological positivism, proposed a set of substitutes to penal measures—the so-called *sostitutivi penali*—that already envisaged the importance of focusing on crime prevention in context, and not only on individual offenders' motivations, by means of, for example, enlightenment and target hardening. More generally, many years ago Garland showed how reducing opportunities and occasions, rather than focusing on changing individuals, plays

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an important role in many different commonsense approaches (e.g., Ferri's, among those of other crime prevention theorists) and in police work.

A large body of literature has been devoted to situational crime prevention, so it is not the intention here to spend more time in describing such techniques. Instead, our focus is on some related features and problems. The first is situational crime prevention's increasing importance in most of the preventive programs and schemes adopted in many different contexts in Europe. Garland [2000:13ff.] singled out factors that might have made situational crime prevention so attractive to policymakers in recent decades. One is the growing relevance of private-sector policing and security approaches, and, more generally, the fact that this kind of crime prevention does not need to rely on traditional state agencies and instruments of criminal justice.

Moreover, in a wider perspective, situational crime prevention "has strong … affinities with the generalized culture of control that was grown up in late modernity" [ibid.:14].

The success of situational crime prevention, however, would not have been the same without the development of local policies of safety, namely, the already mentioned attempt to control crime at a local level through a whole set of different local policies and, more generally, with the politicization of crime and safety issues in the last decades. The success of situational crime prevention on a political level is easily understandable because much more than any other kind of crime prevention, it seems to offer to politicians a set of easily available, pragmatic, and apparently successful answers to crime; it also it represents a good way to reply to citizens' demands for safety.

A second important feature of situational crime prevention is the tendency to enlarge the set of practices. For almost 20 years, Ronald Clarke extended the number of conceptual categories of crime prevention measures from three to five. The first three categories of situational crime prevention were, in the early 1980s, focused on circumstances and opportunities, whereas the two added more recently focus on techniques helping potential offenders comply with law-abiding norms. This expansion of categories also represents an enlargement in the set of theories that are the conceptual framework of these strategies, now broadened to embrace David Matza's theory about techniques of neutralization and other theories of social control.

Clarke's famous classification of situational techniques now embraces five general categories—increase the effort, increase the risk, reduce the rewards, reduce provocations, and remove excuses—each of which contains five preventive subtechniques [Clarke, 2005:46–47].

In the same period, Clarke also tried to enlarge the application of situational crime prevention to many different kinds of crime, including crime related to terrorism [Clarke and Newman, 2006] and, more generally, not

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only to property crime. In this enlargement, we can see both Clarke's attempt to reply to criticisms concerning situational crime prevention, mainly its success only for property and other, very specific forms of crime, and his attempt to offer a general theory of crime prevention.

Despite its increasing relevance in many European contexts and its strong presence in many preventive national and local preventive programs, situational crime prevention has been strongly criticized in the criminological debate for some of its features. On a practical level, its effectiveness has been in doubt. Also, various displacement problems that can arise from situational interventions have been remarked on. On a more theoretical level, situational crime prevention and the criminological rationalities on which it is based have been criticized for such ethical issues as violations of citizens' rights, unfairness, and reinforcement of the exclusion of some social groups from society, as well as for its being too much of a commonsense approach that does not deal with the entire complexity of crime and its causes.*

18.7 Social Crime Prevention

Social crime prevention embraces all those measures whose aim is to eliminate or reduce criminogenic factors, starting from a motivational approach to crime. In this approach, crime is deemed the result of various social causes, which it can tackle consistently only through social programs able to reduce or attenuate the social problems at the roots of crime [Robert, 1991:16; Gilling, 1997:5], through investments in social development programs that strengthen individuals, families, and communities [Knepper, 2007:140].

In contrast to situational crime prevention, in this approach the author of crime and its motivations are at the core of crime prevention, and the context is relevant, not as a "situation," but as a whole set of social conditions conducive to crime:

> Social crime prevention seeks to change criminal motivations, which are perceived to lie in people rather than things, in the social environment.... It seeks to achieve this via social policy-type measures such as housing policies, health treatment and education in respect of crime and alcohol; family and educational policy; youth work; and employment policy. [Gilling, 1997:5–6]

According to some scholars, social crime prevention is not an autonomous effort; it is part of the more general welfare policies [Walgrave and de Cauter, 1986; Peyre, 1986], and as such it should be a component of many different

* The most thoughtful and accurate critical analysis of situational crime prevention is to be found in von Hirsch, Garland, and Wakefield [2000].

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sets of social policies.* Also, a recent overview of social crime prevention [Graham and Bennett, 1995] includes various social welfare policies, including family policies, labor, housing, and social integration policies.

According to others, social crime prevention, here defined as *community-social crime prevention*, should be kept separate from general social policies because of its direct orientation to particular social groups, areas, and contexts [Pitch, 2006:128]. Likewise, it has been pointed out that *not all* social interventions should be seen as affecting crime problems. Social prevention, in this less broad perspective, is only one of the possible aims of different kinds of preventive practices, pursued through social programs [Baillergeau, 2007:9].

Tonry and Farrington [1995], in their exhaustive overview of crime prevention approaches, see social crime prevention as a mix between developmental and community crime preventions. More precisely, remarking on the vagueness of social prevention, they distinguish between *individual* social crime prevention, which coincides with early and developmental crime prevention, and *community* crime prevention. The result is the disappearance of the definition of social crime prevention in this theoretical framework.

The line between developmental and social crime prevention has always been vague because both approaches try to tackle different social deficits that work as criminogenic factors in some context and that produce some effects on some groups of populations. An example of the overlapping between social crime prevention and developmental crime prevention can be found also in Rosenbaum, Lurigio, and Davis [1998:12], who define social crime prevention as the whole set of

> Early interventions in the lives of children to prevent criminality entirely, interventions to prevent at-risk kids from pursuing a delinquent life-style, and interventions to prevent juvenile recidivism.... Their defining element is that they all focus on *youths and their families* and attempt to address the "root causes" of crime or factors that predispose individuals to be at risk of delinquency and criminality.

"Social" and "early" or "developmental" crime prevention approaches, in this perspective, share the notion of potential risks of emergence of criminal behaviors in some population groups, and they attempt to intervene in "root" causes of crime.

Social crime prevention has also been criticized in recent decades. Social approaches to crime, when related to certain social groups, have been seen as stigmatizing measures, rather than those reducing the risk of individuals

* For a similar but more thoughtful and updated approach to social crime prevention, see Knepper [2007].

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developing a criminal career. But the most common criticism of social crime prevention focuses on the excessive length and duration of social action, on the lack of empirical evidence about its impact on individuals and crime, and on related implementation and evaluation problems. Nowadays, as we see later, social crime prevention is apparently no more consistent with the dominant cultures of crime control than with minority social groups and appears to have been declining.

18.8 Community Crime Prevention

Community in crime prevention is nowadays a key concept in both theory and political and institutional crime prevention rhetoric. In the vast English-language literature on this approach, many different descriptions are now used: "comunity governance"; "social capital," "collective efficacy," and "social/community cohesion"; "neighborhood regeneration"; and "civic renewal" [Carson, 2007:712]. In its clearest definition, community crime prevention "refers to actions intended to change the social conditions that are believed to sustain crime in residential communities. It concentrates usually on the ability of local institutions to reduce crime in residential neighbours" [Hope, 1995:21].

Once again, we should notice how this idea and its connected practices are not at all new. Already in existence in the notion of social disorganization, as well as in the ecological studies of the Chicagoans, was the idea of community mobilization and empowerment as a key concept, along with the assumption that the weakening of community social ties and the competition between social groups in definite areas have been the main causes of crime. In the original concept, the community was the place where crime arises, but also the means by which to fight it.

Probably much more than other approaches to crime prevention, community crime prevention is an eclectic concept, one in which we can find different measures and interventions that are conceptually related both to the situational and the social approaches. In this broad definition, community crime prevention embraces all the strategies aimed at fostering citizen participation for crime prevention, at both individual and collective levels. Such participation can be directed toward different aims; in a social approach to community, the aim is to foster inner community resources to prevent crime or to react to crime. This approach can also refer to general measures to deliver better living conditions in a neighborhood.

In a situational version, community crime prevention is based on practices that try to change the physical environment—in doing so, recalling the "defensible space" theory—or to reduce opportunities for crime by means of different form of surveillance and defensiveness directly performed by citizens.

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These different typologies of interventions have been classified into three categories [Graham and Bennet, 1995:71ff.]:

- Community organization, mainly based on the work of the urban sociologists of the Chicago School and on the model of the "Chicago area project." The main goal is to make rapid, nondisruptive, social change to reinforce community social organization and ties.
- Community defense, implying direct involvement of citizens in crime prevention programs, with the main goal of improving surveillance and self-protection.
- Community development, mainly based on the improvement of neighborhoods to tackle urban decline "by rebuilding the social, economic and physical fabric of communities which in turn may lead, unintentionally or intentionally, to reduction in crime and criminality" [Graham and Bennett, 1995:82].

As with social and situational crime prevention, the supporters of community crime prevention have tried to enlarge conceptually the field and scope of this approach to crime, including in community crime prevention some specific situational and social measures, and also community policing [Graham and Bennett, 1995; Rosenbaum, Lurigio, and Davis, 1998].

It is clear from the foregoing remarks that as with other methods of crime prevention, the community approach is not at all a well-separated category. The most relevant element that distinguishes it is that there are the citizens and, eventually, their different forms of organization and mobilization to carry out different kind of preventive practices. Yet the method's actions and aims may be quite similar to those of other preventive strategies.

A final remark on the two main competing conceptual frameworks is in order. The most widespread concept of community crime prevention refers to an idea of community mobilization as a new form of empowerment for citizen and as the starting point for the development of a new form of social order [Edwards and Hughes, 2002:5)]. On the other hand, there is an idea of community as a means to preserve and defend values and properties of the residents as opposed to external threaths.

As well expressed by Carson [2007:13], community crime prevention shows a clear paradox:

> It is to be desired … because of the sense of security and belonging that it offers in an increasingly uncertain world. Yet, its realization, even if possible may depend upon vigorous exclusion and differentiation stemming from our own insecurity and hence upon the collective exclusion of those perceived as "different" and other from our midst.

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Another interesting paradox is that a strong interest in community crime prevention is emerging "at a historic time at which empirically communities are declining in relevance as a source of strong bonds" [Crawford, 2007:888].

18.9 Risk-Focused Crime Prevention

We have seen how early prevention, whether developmental crime prevention or risk-factor prevention, is not easy to distinguish from other kinds of prevention, above all from what has been named here *social crime prevention*. This well-known and widespread crime prevention approach (above all in the Anglo-American context) refers to the individual motivations to commit crimes that arise during the different life stages of individuals. The aim of prevention is intervening in these different stages, with different strategies, in different contexts—mainly the family, the school, and the community [Tremblay and Craig, 1995; Homel, 2005:71]. There are three main distinctive features of early crime prevention. The first refers to the very early stage of individuals' lives, usually their childhood,* until adolescence. Second, early prevention involves the attempt to intervene in the very first act of deviance or crime of an indivual. Finally—and here, we see the early or developmental crime prevention overlap with social crime prevention—early prevention requires some kind of social or individual intervention.

Whatever the stage at which crime prevention intervenes, what is important, above all, is the analysis of the different risk factors at different stages of life:

> The term "risk factor" captures an emphasis on the identification, measurement and manipulation of key variables correlated with future crime as the basis for programme design and delivery. Risk factors are essentially common sense notions that have been put through the wringer of exact measurement and statistical analysis, often in longitudinal surveys where the same individuals are followed for some years (sometimes from birth). [Homel, 2005:74]

The concept of risk factors is currently one of the most relevant in criminological literature on crime prevention, and the list of possible risk factors is continuously increasing. Among the individual factors, Farrington and Welsh [2007:37ff.] list low intelligence and attainment, temperament, empathy, impulsiveness, and poor social skills. Also among familiar risk factors we can find child neglect and abuse, large families, family conflicts and

* How early should the stage be, however, is an open question. According to some criminologists, in fact, risk factors during pregnancy should be taken into consideration also.

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disintegration, and teenage single mothers. Finally, among social risk factors are deprivation, peer influence, and school and community influence.

The conceptual simplicity and the common sense of many of these risk factors explain the success of the strategy of social crime prevention, above all in the Anglo-American context. As some of its main supporters wrote, "The basic idea of this approach is very simple: identify the very risk factors for offending and implement prevention method design to counteract them" [Farrington and Welsh, 2007:94–95].

One important feature of social crime prevention lies in the huge amount of empirical research based on its approach to crime factors and in the attempts of some of its advocates to impose it as the main and the most successful crime prevention strategy, not differently from what happened and is still happening in the case of situational crime prevention. According to Homel [2005:97], "The major lesson from the literature on developmental crime prevention is that it is possible to make a difference, in the short term and in the long term, especially for disadvantaged and vulnerable children and young people."

Criticisms of risk-focused crime prevention and its subtypologies are not so different from those raised in regard to situational approaches to crime prevention. Intrusiveness in personal lives and targeting social groups and stigmatizing them (single parents and teenage mothers, for instance) are the most widespread concerns about this strategy. On a conceptual level, it has also been remarked how difficult it is to distinguish those risks that are true risks from those that are simply correlations [Crawford, 2007:883].

18.10 European Models of Crime Prevention

Some comparative researches about crime prevention in Europe [Robert, 1991; Hebberecht and Sack, 1997; Duprez and Hebberecht, 2001] showed the emergence of two models of crime prevention. The United Kingdom and France are usually referred to as two different European contexts where these models developed first and in their clearest way. According to this distinction, the crime prevention policies developed in the United Kingdom were mainly based on the following principles:*

1. Prevalence of situational crime prevention over social crime prevention
2. Leading role of the police and, more generally, a predominance of a "technical level" over the political one
3. Emphasis on individual responsibility and on the victim's role

* Following the example of the United States, as the comparative perspective by Garland [2001] suggests.

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4. Involvement of local communities in crime control and in surveillance tasks, as in the well-known Neighborhood Watch programs
5. Focus on pragmatism, implementation, management, and evaluation
6. Evident strategy of delegating responsibility from the national state to other actors [Garland, 1996]; however, in a way such that the central state (and precisely the Home Office) keeps firmly in hand priority concerns, resources, evaluations, and the like

The theoretical framework of this model encompasses the whole range of theories of opportunities and their related commonsense approaches, such as the well-known and politically successful broken windows theory, to what concerns urban disorder. While being essentially British, this model in its early stages largely influenced such European countries as the Netherlands and Belgium, and later on, also some other continental contexts.

Comparative literature on crime prevention policies has very often opposed this French, or continental, model based on a number of concerns:

1. The prevalence of social prevention over a situational one
2. The attempt to give elected bodies, especially at a local level, a central role*
3. The idea that crime results from social deprivation, marginality, lack of opportunities, urban decay, and the like
4. A limited delegation of responsibility to individuals and communities, and an attempt to involve collective organizations, social services, and other institutional actors in crime prevention policies

Developed in the 1980s in France, this discourse about crime prevention focuses mainly on social actions as a mean to intervene in social contexts in order to prevent crime. Later, the model developed toward a policy of positive discrimination for disadvantaged neighborhoods [Rochè, 1999; Body-Gendrot and Duprez, 2001:378].

18.11 Contemporary Experiences of Crime Prevention in Europe: The "Mix" Model

The foregoing two models—the British and the French—were not, originally, so well separated. Already in the first few years, they shared more than what appears from their reduction to models; and during the past decade, they

* However, this emphasis on local governments was, in France, more rhetorical than real, given the strong "centralistic" nature of the French institutional framework; whereas in those countries with a weaker state structure, as is the case of Italy, it worked better.

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have come to be closer and closer, to the point where the features they share probably exceed those that separate them [Duprez and Hebberecht, 2001]. While retaining some of its original features, the British model included, at least for a period, an involvement of local authorities in crime prevention policies and, as a key concept to balance the leading role of police, fostered the idea of community safety [Crawford, 2007]. The same occurred in the French model, where more coercive measures, or situational strategies, were often included in crime prevention policies [Rochè, 1999].

As a result, most crime prevention policies in Europe are nowadays a mix of situational and social measures, where the situational approach is dominant.*

Italy is an interesting case for a better understanding of this "mixed" model. The new infrastructure of crime prevention developed in Italy in the early 1990s was articulated in many municipal projects, often coordinated by regional governments, which deliver funds and, in some cases, technical support.† The model is characterized by a mix between traditional social measures, new measures for social reassurance (victims' support, community mobilization), and situational crime prevention (a set of measures mainly based on surveillance, administrative control, and environmental design with defensive aims).

The situational crime prevention measures, which represented a true novelty, were enthusiastically adopted in many cities; and in some cases, they now prevail over social prevention. Given that local bodies have no competence either in penal law enforcement or in crime repression and that they have nonetheless been willing to enlarge their sphere of intervention further than the mere "taking care of" approach, municipalities have been in search of new instruments for controlling people and behavior. These instruments have been found in environmental design, in the use of administrative orders, and in the intensification of surveillance, the latter mainly performed by the Municipal Police.‡

The administrative orders (*ordinanze sindacali*) are grounded, not in criminal law powers, but in administrative ones. They are the prerogative of mayors, who for reasons related to public hygiene or other generic risks to the well-being of citizens have the power to enact them to face

* The compatibility of "situation rationality" with "social justice" and the spreading of articulated models of crime prevention were analyzed in advance by O'Malley [1992] and Gilling [1997].

† This description of the Italian way of "new" prevention is based on a national research about crime prevention policies in the 103 largest Italian cities during the last five years of the 1990s, and on a partial updating of the first national research [Selmini, 2003].

‡ The Municipal Police force, which depends on the mayor, has an exclusive competency in the general field of administrative police, but it also has the status of a public security force. Apart from the normative definition of police competencies, the force's role in crime prevention increased enormously in the past 10 years.

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emergencies and to routinely keep many activities and different groups of people in public spaces under control. By means of such administrative orders, Italian communities have experienced substantial interventions of local police, especially against street prostitution, disorder, incivilities, and nuisances related to undocumented immigrants. A recent parliamentary law (n. 125/2008) enlarged the use of such order far beyond these cases, giving the mayors the power to use them when necessary for reason of "local safety."

The combination of the measures just described has allowed local authorities to develop what is usually called in political parlance an *integrated approach*. This means that in some cases, crime prevention programs try, at a local level, to modulate social inclusion and exclusion and to tackle causes of crime while, at the same time, managing crime symptoms. However, if "integrated crime prevention" is a rather successful political slogan, this does not mean that integration could actually enable local governments to really modulate these two different approaches [Selmini, 2005].

A similarly interesting case of a mixed model of crime prevention is Belgium, where, in the 1990s, national and local governments implemented many preventive schemes based on different measures and different rationalities. The crime prevention programs, defined as "*globale-integrée*" [Cartuyvels, 1996], aimed to address ordinary urban crime, social exclusion, and feelings of lack of safety; and on the basis of a similar French experience [Le Goff, 2004], they were also regulated through administrative formal agreements called "*contracts de sècuritè*."

In the late 1990s, European models of crime prevention were in most cases, and despite some relevant disparities, based on this mixed approach of strategies and on different so-called logics or rationalities. Everywhere, however, as has been remarked [Hebberecht and Duprez, 2001], the situational approach was dominant, together with the whole set of explanation of crime and cultural crime control approaches related to these practices.

Despite local peculiarities, European crime prevention experiences in European countries are now based on certain central common features:

- The matching of different typologies of crime prevention, with the prevalence of the situational schemes and an emerging relevance of the risk-focused approach
- An increasing attention toward not only crime but also antisocial behaviors, or incivilities, disorder, and different forms of soft crimes
- An increasing use of different administrative and regulatory instruments to deliver crime prevention

Italy is once again an interesting example of a mixed use of these crime prevention instruments, some from the French model (e.g., the *contracts de*

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sécurité), and others from the British (e.g., the administrative order to tackle antisocial behavior, which in Italy is becoming more and more similar to the British antisocial behaviors orders).

18.12 Some Concluding Remarks

This chapter has described the criminological debate about definition of crime prevention, its changes in the last decades, and the models that are now widespread in many European countries. Also remarked on here has been how these changes are oriented to a greater homogenization of discourses and practices that are apparently able to overcome local peculiarities.

Homogenization is mainly the result of similar needs and general processes that have occurred in the past few years all across Europe. As described in the previous pages, new forms of prevention have emerged at a European level as the new answer for local as well as national governments in search of a strategy to face their status as "high crime rates societies" [Garland, 2001]. Prevention has also become the adequate measure in a world where state sovereignty is restructuring and where national states are decentralizing their functions through different mechanism of governance [Garland, 1996] or where localities are in search of new powers and visibility. The new discourses about crime prevention that spread across Europe in the past decades are deeply rooted in these global institutional and political changes.

These final remarks focus on some open questions and emerging issues that are also, apparently, common problems in different contexts, but above all on the following points:

- Changes and decline of social crime prevention
- Permanence of different forms of crime prevention
- Increasing relevance of administrative regulations to achieve crime prevention goals

Whereas situational crime prevention has become the most widespread category of crime prevention in most European countries in the last 20 years, social approachs to crime prevention are now seen as obsolete, extremely expensive, impossible to evaluate, or ineffective regarding crime trends.

In the context just described, social prevention, while apparently still a well-established concept, is radically changing in nature, altering its features in everyday practice and safety policies. For the reasons mentioned earlier, once integral to local safety policies, social crime prevention is increasingly at risk of losing its traditional features.[*]

[*] A dynamic that has also been defined as "criminalization of social policies" and already been analyzed in different European contexts [Van Swaaningen, 2004; Cartuyvels,1996; Pitch, 2006].

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On the one hand, the prevailing situational rationality has also permeated those measures that we once called *social* (the short-termism, as already mentioned, is the most evident feature of this change); on the other, social interventions are more and more used as an auxiliary measures to situational intervention.

Another change affecting social crime prevention relates to the object of its measures—namely, not only populations at risk of becoming criminal but also potential risk affecting the perception of insecurity among people. The development of local safety policies, with their broad aims at preventing both crime and feelings of insecurity, supported practices that are oriented toward potential victims of crime as vulnerable subjects, whose needs of protection are balancing the efforts to prevent some people from becoming criminals. Social reassurance—a broad concept under which we can find various measures aimed to prevent fear of crime and lack of safety or to avert conflict in the neighborhoods and among different social groups—is now more and more used to define a new way to put social crime prevention into practice [Baillergeau, 2007].

Finally, social crime prevention has been progressively losing its general aim of modifying structural contexts that favored crime, and it is becoming increasingly articulated in less ambitious practices. More precisely, measures of social crime prevention, above all those adopted in local safety projects, clearly show a shift from aiming to intervene radically on the causes of crime through social reform to simply offering humanitarian, but often short-term solutions, for some disadvantaged groups.

This loss of focus of social crime prevention, above all when such measures are mixed with situational ones in the context of local safety policies, is now documented in many different contexts,* and it has been explained as the result of its contemporary "informational and conceptual ambiguity (that) opens the doors to multiple and contradictory political interests, and at the end of the day, makes it vulnerable to co-optation by conventional crime control agendas" [Knepper, 2007:140].†

Together with these changes in social crime prevention, a further issue worth noting is the recent emergence of developmental crime prevention, or risk-focused crime prevention, as an alternative to traditional social prevention. Developmental and situational crime prevention are now presented—both in some criminologists' works and in some safety programs—as the new alliance able to tackle crime in its different dimensions. These words well

* Gilling [2001] points out this change in social crime prevention in the context of some British mixed crime prevention programs, where social reassurances measure also encompass CCTV measures and street surveillance. The broadness of this change in social crime prevention is noted by Sutton and Cherney [2003] with reference to Australia.

† Very few scientific works are currently seeking to put social crime prevention onstage once again, also trying to make it compatible with the new needs of the risk society and the new shape of safety policies [Baillergeau, 2007; Knepper, 2007].

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express the emergence of this new alliance between different forms of crime prevention:

> The solution [for the future] is a integrated prevention where, side by side a selective penal prevention, other preventive measure are developed: the situational and the psycho-social.… Given the fact that crime behaviors are the result of predisposition and opportunities, we need to intervene on predisposition until it is possible, and then modify opportunities. [Savona, 2004][*]

What we are nowadays witnessing is also the blurring of the boundaries among the different typologies of prevention described in this chapter. We are seeing the emergence of a mix of strategies whose main important feature is given by its effectiveness: *evidence-based crime prevention* (embracing different situational, social, and risk-focused techniques) is becoming the most important and unique crime prevention strategy in some criminological discourses [Farrington and Welsh, 2006], as well as in political programs.

Many questions remain open: Are we witnessing the disappearance of social crime prevention in its traditional meaning? Which changes should we expect from the emergence of risk-focused crime prevention and the increasing relevance of situational crime prevention? How will the main infrastructure of crime control policies be affected by these changes, and especially by the increasing use of administrative instruments to control behaviors and situations and to dissuade people from acting criminally or antisocially? How will the tendency toward a decrease in crime rates, a tendency apparently widespread across Europe, affect these experiences of crime prevention?

There are also some important issues not mentioned in this chapter, but they deserve to be briefly touched on as important issues related to crime prevention: for instance, the difficulty in establishing models of evaluation of what works and what does not. Concerning evaluation, there is a great difference between the United Kingdom, where evaluation seems to be widespread, and continental Europe, where evaluation is completely disregarded. Also not mentioned have been the relevant changes in nature, professional identities, and everyday practices of local and national policies—changes that have a strong impact on crime prevention. Finally, left out of the discussion has been a consideration of administrative bonds and regulations in delivering crime prevention schemes, yet they are as important as cultural and political definitions of crime prevention.

All these issues are, of course, interesting for a better understanding of changes and features of contemporary crime prevention strategies. In this chapter, however, the analysis has been limited mainly to features related

[*] Here, risk-focused crime prevention is called *psychosocial crime prevention*.

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to general changes in crime control policies, those that have delineated the framework for the development of crime prevention experiences in Europe.

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Crime, Victims, and Social Divisions

V

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Class, Inequality, and the Etiology of Crime

19

JUKKA SAVOLAINEN

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19.1 Introduction

Modern criminological theory and research are dominated by social scientists, particularly sociologists. It is therefore not surprising that variables central to sociological inquiry, such as race, class, and gender, have received plenty of attention in criminology. Most etiological theories of criminal offending assume an inverse association between social class

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and criminal involvement [Farnworth at al., 1994:34]. Social conditions like poverty, inequality, and joblessness are assumed to increase crime. According to Marcus Felson [1998], this mode of thinking exemplifies "the pestilence fallacy"—the notion that undesirable outcomes, such as crime, must stem from other bad things. Just as modern medicine has disproved the prescientific belief that nasty potions ward off diseases, Felson argues that social inequality and poverty are neither necessary nor sufficient causes of criminal activity. Sometimes "good times" and affluence stimulate opportunities for stealing and even violent crime [Wilson, 1983; Cohen and Felson, 1979].

Few analysts would dispute that a disproportionately large share of the clients in the criminal justice system are socioeconomically disadvantaged [Hirschi, 1969; Shover and Inverarity, 1995]. Individuals with minimal levels of educational attainment and weak labor market attachments dominate the prison populations in nations like Sweden [Kling and Gustavsson 2002], Canada [Trevethan et al., 1999], Finland [Kruttschnitt and Savolainen, 2009], and the United States [Western, 2006]. Is this not sufficient proof that low socioeconomic status is associated with crime? Yes and no. It does indeed appear that prolonged involvement in a criminal lifestyle is largely inconsistent with middle-class status. Outside the fictional depictions of organized crime families, as in the TV show *The Sopranos*, it is rare to encounter a career criminal living in an affluent suburb, supporting a wife and two kids.

However, looking at the socioeconomic composition of the prison population does not settle the question of causal influence. It is conceivable that many of the inmates are there because their social class of origin presented limited opportunities to achieve a middle-class way of life. But the reverse may also be true. Perhaps their criminal tendencies prevented them from completing an education or showing up at work, regardless of their social background? Third, the overrepresentation of socioeconomically marginal groups in the criminal justice system may reflect bias in the decisions to arrest, prosecute, and sentence individuals. What we see in the official statistics may overstate class differences in criminal behavior.

In sum, it is relatively easy to "predict" the socioeconomic status of a prison inmate with a long criminal record. There are few middle-class individuals of such description. By contrast, as decades of criminological research have shown, it is much more problematic to determine the contribution of social class as an antecedent of criminal behavior. Is low socioeconomic status a causal risk factor for delinquency? This chapter first reviews how major theoretical perspectives in criminology view the association between social class and crime. It then examines the relevant empirical evidence with an emphasis on recent studies.

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19.2 Theoretical Models of Class and Crime

This section covers four major perspectives of criminological theory: strain/anomie theory, control theory, social learning/cultural theory, and labeling theory. These perspectives entertain sharply differing assumptions about the psychosocial mechanisms that foster criminal behavior [Kornhauser, 1978, 21–50]. *Strain theory* assumes that human nature is inherently prosocial, aversive to rule breaking. In order to make sense of deviance, we must identify circumstances that motivate people to do things they would not normally do—situations that push people to violate social norms. *Control theory* takes the opposite point of departure. Consistent with thinkers like Thomas Hobbes and Sigmund Freud, control theorists subscribe to a more cynical, selfish, and hedonistic view of the human nature. According to this perspective, the motivations for crime are obvious. After all, why would you pay for something if you can get it for free? The really interesting question is conformity. What are the forces that keep people from acting on their natural impulses? What keeps us in check?

As a third way between the two opposites, *social learning theories* assume that human nature is a tabula rasa, an empty canvas that gradually fills up in reflection of our social environment. Thus, propensity to criminal behavior is a manifestation of growing up in an environment—or a (sub)culture—that promotes, either purposefully or inadvertently, modes of behavior deemed antisocial by the normative mainstream. Finally, the *labeling perspective* views criminal involvement as a socially constructed process. Group-level differences in criminality do not result from actual differences in behavior as much as from the fact that similar behavior is defined (labeled) differently depending on characteristics like race, class, and ethnicity.

Despite their heuristic differences, each of these four perspectives arrives at the same basic conclusion about the relationship between social class and crime. In what follows, we examine the proposed mechanisms in closer detail.

19.2.1 Strain/Anomie Perspective

The association between social class and crime plays a key role in the evolution of strain theoretical thinking about crime. Robert Merton [1968] developed his anomie theory (in 1938) to explain why norm breaking was more widespread in the United States compared to some of the more "traditional" European nations, such as the United Kingdom and Italy. Drawing on Émile Durkheim's notion [1951] of anomie as imbalance between the personal "coefficient of well-being" (expectations of success acquired in the process of socialization), and the actual (attained) level of well-being, Merton argued that American society is characterized by a cultural code that endorses a

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high level of monetary achievement as a universal success goal. Combined with an unequal distribution of opportunities to achieve economic success, this characteristic of the American culture creates strain toward using illegal means to achieve "the American dream." Thus, according to this theory, elevated levels of "structural strain" in the social system explain why there is (or was) more crime and violence in the United States. Everybody wants to win, but most people do not have what it takes.

At the individual level of analysis, Merton developed an influential typology of adaptations to the conflict between cultural goals and structural opportunities. He used the term "innovation" to characterize criminal adaptation, that is, the use of illegal means to pursue the mainstream goal of monetary success. Under this perspective, a criminal compares to an Olympic athlete who resorts to doping to improve his or her chances of winning the gold medal.

As a contemporary extension of this tradition, Agnew's general strain theory [1992] argues that frustrated goals resulting from blocked opportunities is only one type of strain influencing criminal behavior. Drawing on the literature on social stress, Agnew identifies two additional aversive psychological conditions that may result in criminal adaptations: the removal of positive stimuli (e.g., losing your girlfriend) and the presentation of negative stimuli (e.g., being bullied at school). General strain theory views delinquency as a method of coping with exposure to stressful events—not the only method but one possible alternative, depending on a number of auxiliary factors such as personal coping skills and situational constraints to delinquency. The theory assumes, for example, that individuals with low self-esteem and reduced cognitive skills are more likely to respond to adversities in a violent or criminal manner (see Figure 19.1).

Building on the macro-level elements of Merton's work, Messner and Rosenfeld's institutional anomie theory [1997] attends to the relative strength of the economy as compared to other such institutional spheres as education, the family, and the polity. According to this theory, insufficient investment in noneconomic institutions capable of buffering the risks associated with

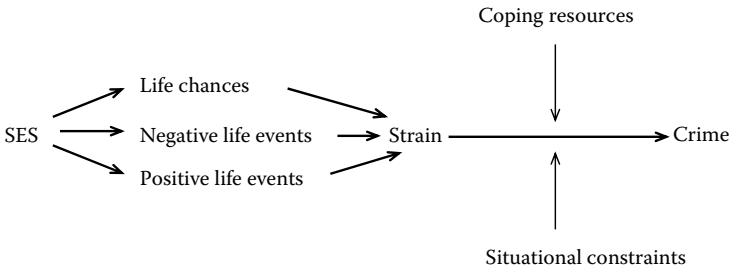


Figure 19.1 The association between social class and crime according to general strain theory.

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the market economy (e.g., "downsizing" and "outsourcing" of the workforce) results in criminogenic consequences. Interestingly, focusing on the capacity of institutions to regulate behavior, institutional anomie theory is perhaps more consistent with control theory (see later) than strain theory at the individual level of explanation. Nevertheless, like Merton's anomie theory, Messner and Rosenfeld's theory argues that the association between social class and crime should be particularly high in societies, like the United States, characterized by comparatively low levels of collective social protection.

19.2.2 Control Theories

Although the role of social class is less obvious in control theories of crime, most of them imply an inverse relationship. According to social bonding theory [Hirschi, 1969], strong ties to conventional institutions keep criminal impulses in check. For example, when confronted with an opportunity to steal or a provocation to fight, people with good jobs or good economic prospects are likely to think twice because they have high stakes in conformity. By comparison, an unemployed person, or even an individual with a dead-end job [Crutchfield and Pitchford, 1997], is at relative liberty to offend because the consequences of getting caught would be less detrimental. As an extreme example, it is possible for a homeless person to commit a crime only to secure shelter and food in a jail.*

Sampson and Laub's age-graded theory of informal social control [1993] argues that attachments to work and family can serve as turning points for individuals with a long career in criminal offending. The more you have to lose, the less likely you are to risk it by offending (see Figure 19.2). People with nothing to lose care little about the consequences of their actions.

As a more recent variant of the control theory family, Gottfredson and Hirschi's "general theory of crime" [1990] argues that *low self-control* is the common cause of all crime and related antisocial behavior. It seems to be difficult to attain (or retain) high socioeconomic status—for example, to obtain an advanced degree and have a successful career—without reasonable capacity to delay gratification. From this perspective, even the general theory is consistent with a negative relationship between social class and crime. However, in this situation, the association would be a matter of selection rather than causation—unless, of course, one assumes that social class affects the acquisition of self-control. (We return to this issue later.)

* In a sense, social bonding theory could be understood as a version of the rational choice theory, which argues that crime—like any other behavior—results from a subjective calculation of costs and benefits [Becker, 1968; Cornish and Clarke, 1986]. Rational choice theory is an important model for explanations of criminal behavior. However, it has not been used widely to address the influence of social class. Freeman's work [1991] on illegal earnings constitutes an important exception.

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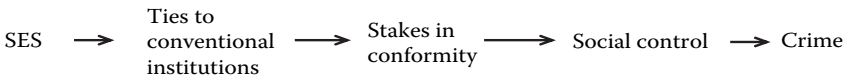


Figure 19.2 The association between social class and crime according to social bonding theory.

19.2.3 Social Learning and Cultural Theories

According to the theory of differential association, relative exposure to attitudes and behaviors prohibiting versus condoning illegal behavior determines involvement in crime [Akers and Sellers, 2004:81–91]. To explain class differences in crime, some social learning theorists focus on the context of parenting [Heimer, 1997]. One the one hand, working-class parents have been found to be more likely than middle-class parents to engage in coercive and assertive disciplinary practices that convey violent and antisocial models of problem solving. On the other hand, because of reduced levels of parental supervision, children from less affluent families tend to have more frequent associations with delinquent peers.

In an effort to explain extreme levels of crime and violence in poor African American communities, Elijah Anderson [1999] has proposed that the structural characteristics of these neighborhoods have created a stable cultural orientation—a "code of the street"—that is conducive to violence. According to this theory, lack of opportunities to succeed in conventional society has made it necessary to develop alternative means of achieving status. The code of the street is a conduct norm that demands respect of others through a tough and violent identity [Stewart and Simons, 2006]. Hypersensitivity to insults and readiness to defend one's honor are the hallmarks of this disposition. Markowitz and Felson [1998] have argued that variation in attitudes related to insults, courage, and retribution explain socioeconomic differences in violence more generally. (For a clear picture of the relationship between social learning perspectives and social class, see Figure 19.3.)

19.2.4 Labeling Theory

The distinction between *primary* and *secondary* deviance is a core element of labeling theory [Liska and Messner, 1999]. *Primary deviance* refers to such

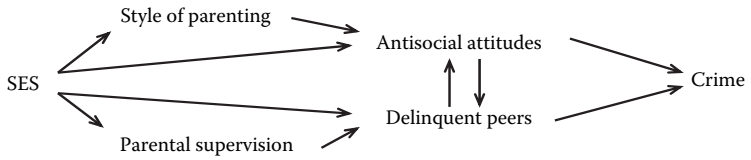


Figure 19.3 The association between social class and crime according to social learning theory.

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common forms of rule violation as petty delinquency, which is widespread among adolescents. *Secondary deviance* refers to more serious and persistent forms of rule breaking as evidenced by a "criminal career." According to labeling theory, social class has little or no effect on involvement in primary deviance—an assumption that is largely supported by contemporary studies of juvenile delinquency (as reviewed later). However, the position in the social structure has a lot to do with one's ability to manage the *consequences* of primary deviance. A teenager who is picked up for vandalism or joy-riding will be treated differently depending on how this behavior is perceived by the relevant authorities and what kind of resources the teen's family has at its disposal to influence social reactions to primary deviance.

According to labeling theory, lower-class individuals with limited resources are more likely to be treated as "criminals" deserving of punishment, whereas children from middle-class families are more likely to be offered second chances or therapeutic treatment options. In other words, *social class affects the ability to resist the criminal label.* This is important because once the label sticks, it will have major consequences on such life chances as educational and job opportunities, on friendships and other interpersonal associations, and even on your identity—the way you regard yourself as a member of the society. According to this theory, the association between social class and crime (secondary deviance) is real but socially constructed (see Figure 19.4).

19.3 Evidence

This section is organized by levels of analysis. We start with *individual*-level studies of criminal offending. We then turn to evidence from *community*-level studies and *cross-national* research. The section concludes with a brief look at research on social class and *victimization*.

19.3.1 Self-Report Studies of Criminal Offending

Data based on such official crime statistics as court convictions provide limited opportunities to study the correlates of criminal offending. First, these

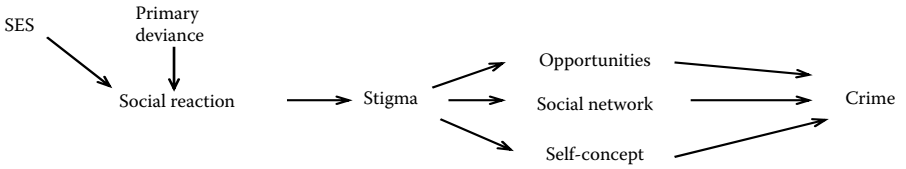


Figure 19.4 The association between social class and crime according to labeling theory.

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sources typically offer a very limited selection of theoretically relevant characteristics. It is usually possible to obtain data about such basic demographic attributes as age and gender, but information about socioeconomic status is rarely available. Second, clients of the criminal justice system constitute a biased sample of the population. If the goal is to identify the characteristics that *predict* criminal involvement, one must start with a sample that includes offenders as well as nonoffenders. The self-report method was developed for this purpose, namely, to study correlates of crime and delinquency in "normal" populations. Decades of methodological scrutiny suggest that this method is, by and large, capable of yielding reasonably valid measures of criminal behavior [Hindelang, Hirschi, and Weis, 1981; Guo, Roettger, and Cai, 2008; Naplava and Oberwittler, 2002].

As a major challenge to the prevailing criminological thinking, the first generation of these studies failed to document a strong link between juvenile delinquency and the socioeconomic status of the family. In 1978, Tittle, Villemez, and Smith published an influential article entitled "The Myth of Social Class and Criminality." Based on a meta-analysis of more than 300 studies, they concluded that "numerous theories developed on the assumption of class differences appear to be based on false premises. It is now time, therefore, to shift away from class-based theories to those emphasizing more generic processes" [Tittle, Villemez, and Smith, 1978:654]. Not surprisingly, this provocation inspired several attempts to salvage the role of social class in criminological research [Braithwaite, 1981; Hagan, 1992; Bernard, 1984]. Many of these reactions question the ability of the self-report method to capture the association between social class and crime.

19.3.1.1 Measurement of Class and Crime

A traditional self-report study relies on a random sample of school-age children, typically teenagers. The surveys are usually carried out in a classroom setting. This instrument is well suited to capture such common forms of delinquency as shoplifting, smoking, and truancy (although hard-core truants would, of course, be difficult to include in a school-based sampling frame). The more serious the offense, the more rare it tends to be in the population. Therefore, in order to include a sufficient number of serious incidents of criminal behavior—that is, behavior that corresponds to rape, burglary, and aggravated assault, as defined in the penal code—one would have to secure a very large sample. Most studies of self-reported delinquency fall short on this requirement. As a result, the indicators of criminal behavior used in self-report studies have been dominated by norm violations that are trivial from the perspective of criminal law.

Perhaps the association between social class and crime fails to emerge in these studies because there are no class differences in the tendency of adolescents to engage in *trivial* acts of delinquency? Evidence from longitudinal research

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suggests that there is an etiological difference between adolescence-limited and life course–persistent trajectories of criminal offending [Moffitt, 1993]. Most adolescents engage in delinquency to some degree. Indeed, delinquent behavior in this stage of human development is so widespread that it may be considered normative rather than deviant. Some researchers find it more interesting to study those few adolescents who abstain from delinquency completely [Brezina and Piquero, 2007]. Focusing on trivial acts of delinquency during adolescence, most self-report studies may be poorly equipped to examine the correlates of serious crime.

In a creative effort to sidestep this limitation, Elliott and Ageton [1980] proposed to substitute quantity for quality: they attempt to identify serious offenders in a self-report study by attending to the *frequency* of delinquent offending. Elliott and Ageton criticized prior research for focusing on differences at the *low end* of the frequency distribution, for example, differences between nondelinquents and those who engage in delinquency one to three times per year. Their research shows that switching the focus on high-frequency offenders—juveniles reporting as many as 200 acts of delinquency—reveals significant differences across social class. The percentage of lower-class juveniles in the high-frequency category is twice as high as among middle-class youth [Elliott and Ageton, 1980:104].

Self-report studies of social class and crime have also been criticized for they ways in which they measure socioeconomic status (SES). As Farnworth and others [1994] point out, most criminological theories are concerned with effects associated with poverty, social disadvantage, and other manifestations of underclass status: "Despite this, many empirical studies have used measures of social class based on a status attainment model that is designed to make rather fine distinctions among occupations within the economic mainstream" [Farnworth et al., 1994:54]. Drawing on the Rochester Youth Development Study, a panel study of self-reported and official delinquency that oversamples children from impoverished high-crime neighborhoods, Farnworth and her colleagues were able to examine the impact of different measurement strategies on the association between social class and crime.

Findings from these analyses confirm that the way in which social class and delinquency are operationalized matters a great deal. Such measures of persistent underclass status as chronic joblessness and welfare dependency are consistently and strongly related to serious forms of self-reported and official street crime such as breaking and entering and robbery. By contrast, occupation-based measures of socioeconomic attainment are weakly related to such trivial forms of juvenile delinquency as truancy and shoplifting. In short, it appears that *when class and crime are measured in a manner that is consistent with the relevant theories, the expected inverse relationship will materialize* [Farnworth et al., 1994:54–55].

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19.3.1.2 Evidence from Other Nations

The debate about the link between social class and crime in studies of self-reported delinquency is based almost entirely on data sets from the United States. However, research conducted in other Western developed nations tends to replicate the finding that the association between the occupational measure (of parents') socioeconomic status and (common) delinquency is weak at best [Junger-Tas, 1994:375].

Using a longitudinal data set from New Zealand, Wright and others [1999] developed and tested a theoretical model that postulates both negative and positive effects for social class. According to this theory, the bivariate correlation between SES and crime is weak because SES entails countervailing influences. Drawing mostly on power-control theory [Hagan, Gillis, and Simpson, 1985; Jensen and Thompson, 1990], Wright et al. propose that individuals populating the upper echelons of society tend to be more prone to risk taking and, because of their powerful position in society, less concerned about the consequences of rule breaking. In support of this hypothesis, a model that adjusts for class differences in the relevant psychological characteristics yields a strong negative association between socioeconomic status and delinquency. In other words, deviant attitudes associated with social privilege appear to suppress the otherwise strong relationship between socioeconomic disadvantage and crime.

As explained, self-report studies emerged in the United States to bridge the gap between theoretically pressing research questions and the limited data available from official sources. Statistical systems in other nations are less restrictive in this regard. In countries like Finland, Sweden, and the Netherlands, it is possible to create rich data sets by linking population records across different administrative registries. Whereas these opportunities are routinely exploited by researchers in public health and other areas of population studies, there have been relatively few criminological studies of this description—with the notable exception of research conducted in by Dutch scholars Blokland and Nieuwbeerta [2005, 2007].

Evidence from Denmark documents a nonlinear association between labor market status and crime [Kyvsgaard, 2003]. Among the employed, the percentage of individuals with penal code violations declines steadily with occupational status, but this association is not very strong. However, the prevalence of criminal offending among the jobless is several times higher compared to those who work [ibid.:78]. In a similar vein, research conducted with Norwegian data finds that the percentage of adolescents with a criminal record declines steadily with the educational level of the parents [Skardhamar, 2008]. Children of parents with minimal levels of education are twice as likely to have been charged with a criminal offense as children whose parents have a university degree. Consistent with self-report studies from the United States [Farnsworth et al., 1994], Skardhamar also reports that *chronic poverty*

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is a particularly strong correlate of criminal offending in Norway. It is notable that both Denmark and Norway are societies with a strong socioeconomic safety net. If social class is related to nontrivial criminal offending in these egalitarian societies, one would expect even stronger effects in nations with more intense levels of poverty.

19.3.2 Community Context of Class and Crime

The self-report method can also be criticized for a narrow *conceptualization* of social class. Most self-report studies treat social class as an individual- or a family-level attribute, ignoring the fact that the *community context* of social disadvantage plays a critical role in many sociological explanations of crime [Shaw and McKay 1942; Sampson and Groves 1989; Blau and Blau 1982]. Research by Robert Crutchfield [1995; Crutchfield and Pitchford, 1997] suggests that the social structure of the residential area has a lot to do with the impact of a person's social class on criminal offending. For example, marginal labor market status does not appear to contribute to criminal behavior for individuals living in a suburban middle-class neighborhood. However, the consequences of unemployment are different if the same individual is embedded in a community with a critical mass of similarly situated peers: thus,"when they spend substantial amounts of time with other marginally employed people in bars, on street corners, or pool halls, they are more likely to be involved in crime" [Crutchfield, 1995:205].

Much of recent community-level research on social class and crime has been motivated by the desire to understand *why* disadvantaged neighborhoods have more crime [Bellair, 1997 and 2000; Kubrin and Weitzer, 2003]. Blending elements from contemporary social disorganization theory [Sampson and Groves, 1989] and Coleman's social capital theory [1990], *the theory of collective efficacy* is a sophisticated example of this literature [Sampson, Raudenbush, and Earls, 1997]. Informal social control enacted under conditions of social trust is the key causal mechanism in this theory [Sampson, 2004]. Why do some communities tolerate unsupervised teen groups, the formation of illegal markets (e.g., drugs, prostitution), and the escalation of disputes among the residents, whereas other communities are able to resist criminogenic forces of this description?

Two characteristics appear to be particularly salient in this regard: social cohesion among the residents and their willingness to intervene. Results from a survey of neighborhoods in Chicago show that the structural characteristics of the neighborhoods (poverty, family disruption, residential instability, etc.) account for 70% of the variation in their collective efficacy [Sampson, Raudenbush, and Earls, 1997]. In turn, collective efficacy mediates a major share of the association between neighborhood social composition and violence. Studies conducted in Germany [Oberwittler, 2004a], Iceland [Bernburg and

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Thorlindsson, 2007], Sweden, and Belgium [Pauwels and Mellgren, 2008] offer convincing cross-national support for the assumption that neighborhood social capital is an important determinant of community-level differences in crime and delinquency.

If, as numerous studies suggest, living in a socioeconomically disadvantaged neighborhood increases criminal behavior, does *leaving* the neighborhood reduce offending? To be sure, in most cases, moving out is not a realistic option. People do not choose to live in poor areas. However, a social experiment sponsored by the U.S. Department of Housing and Urban Development (HUD) offers a unique opportunity to examine the consequences of residential mobility on crime. This project, entitled "Moving to Opportunity" (MTO), assigned housing vouchers through a random lottery to public housing residents in low-income neighborhoods located in Baltimore, Boston, Chicago, Los Angeles, and New York [Shroder, 2001]. With the help of these vouchers, participants in the MTO experiment were able to move to a rental home located in a low-poverty area. Because of the random assignment of this opportunity, it is possible to measure the consequences of neighborhood change by comparing the treatment group and the control group (families that did not get the voucher).

The findings from the experiment suggest that young males and females respond differently to neighborhood change [Kling, Ludwig, and Katz, 2005]. For males, MTO reduced violent crime and problem behaviors in the short term, but these effects dissipated and even reversed over time. In the end, males in the treatment (voucher) group had been arrested for property crime 30% more frequently than males in the control group. (This finding seems to support the routine activities theory: affluent areas offer a more attractive selection of targets to steal.) By contrast, the female participants enjoyed large reductions for each measure of criminal involvement as a consequence of residential relocation.

The reasons for the gender difference are not clear. Why should the change in the residential context benefit girls but not boys? Research on female criminality finds that much of it occurs under the influence of male peers, such as boyfriends [Steffensmeier and Allan, 1995, 88]. Limited exposure to delinquent males may explain reduced levels of criminal activity in the female treatment group. There may be fewer "bad boys" available for girls to hang out with in middle-class neighborhoods.

19.3.3 Cross-National Research

Compared to other types of crime, homicide statistics audited by the World Health Organization are considered to be reasonably valid and reliable across national units [Neapolitan, 1997; Messner, Raffalovich, and Shrock, 2002]. On the other hand, it is relatively easy to obtain international indicators

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of basic economic and population outcomes. These facts may explain why the association between economic inequality and the rate of homicide has been a frequent topic of research in cross-national comparative criminology [Pridemore, 2008; Chamlin and Cochran, 2005].

Evidence from this body of work provides overwhelming support for the conclusion that the problem of lethal violence is more widespread in nations characterized by a large gap between the rich and the poor [Chamlin and Cochran, 2005; Messner, Raffalovich, and Shrock, 2002; Pridemore, 2008]. Recent work in this area has moved from mere estimation of this effect to theoretically grounded efforts to understand the relevant causal processes. Drawing on institutional anomie theory [Messner and Rosenfeld, 1997], Savolainen [2000] found support for the hypothesis that the effect of economic inequality on national homicide rates is contingent on "decommodification," or the degree to which societies offer collective protection from the risks associated with a market economy [Esping-Andersen, 1990]. Nations that provide universal health care, generous unemployment benefits, and supportive child-care arrangements can "afford" economic inequality with no added cost in the form of lethal violence. According to this study, the effect of inequality on homicide is limited to nations characterized by a weak socioeconomic safety net. This finding has been replicated with different data sets in subsequent studies [Pratt and Godsey, 2003; Messner, Raffalovich, and Shrock, 2002; Neumayer, 2003].

19.3.3.1 Poverty as the Active Ingredient

The evidence suggests that it is not inequality per se but the presence of a persistent and sizable underclass population that seems to be the key factor. A recent study by Pridemore [2008] arrives at the same conclusion in a more direct fashion. The starting point for this research is the apparent discrepancy between cross-national studies of homicide, on the one hand, and city- or state-level studies conducted (mostly) in the United States. The aggregate studies conducted within the United States [e.g., Blau and Blau, 1982; Parker and Pruitt, 2000] tend to find a consistent link between homicide and *poverty*, whereas cross-national studies are focused on *inequality*—a relative measure of economic well-being. The absence of a widely accepted cross-national measure of poverty may explain the emphasis on inequality that can be neatly measured in terms of the Gini Index.* To correct for this omission in cross-national homicide research, Pridemore proposes infant mortality rate as a proxy measure of poverty. (Infant mortality is a widely used indicator of

* The cross-national data archive compiled by the Luxembourg Income Study (LIS) offers high-quality indicators of poverty and income distribution for comparative purposes. To my knowledge, this remains an untapped source in cross-national studies of crime. At this time, LIS covers 30 nations, limiting its usability for multivariate analysis (http://www.lisproject.org).

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poverty in international comparisons of health outcomes.) Consistent with research based on national data sets, Pridemore finds that much of the association between inequality and homicide is indeed caused by poverty: the effect of economic inequality disappears once cross-national differences in infant mortality are taken into account.

Unlike other recent cross-national studies of homicide, Pridemore does not attend to the influence of the welfare state. Cross-national research on poverty shows, not surprisingly, that nations that score high on decommodification tend to have the lowest rates of poverty [Kangas, 2000; Kenworthy, 1998; Korpi and Palme, 1998]. It is therefore logical to assume that much of the effect of poverty has to do with public policy. Research by Paul-Philippe Paré [2006] confirms this hypothesis. First, like Pridemore, he finds that inequality is not related to cross-national differences in lethal violence independently of poverty. Second, the effect of poverty on homicide is explained entirely by differences in social welfare expenditures. In other words, *nations that invest in a strong socioeconomic safety net enjoy reduced levels of poverty and homicide.*

Pridemore's research suggests that prior studies exaggerate the role of inequality because they ignore other influential factors, including poverty. Research by Eric Neumayer [2003] represents a more radical version of this same argument. Drawing on an exceptionally large sample of 117 nations pooled over an 18-year period, Neumayer is able to introduce more explanatory variables than is customary in cross-national analyses of homicide. His theoretical framework includes three domains of institutional development: (1) *political governance*, which refers to the quality of political institutions (strength of democracy, respect for human rights, etc.); (2) *economy*, which refers to the overall performance of the economy as indicated by economic growth and per capita income; and (3) *equity*, which refers to the distribution of resources within the population (i.e., factors like inequality, poverty, and discrimination). Note that much of the prior work on cross-national homicide is focused on the third sphere and has largely ignored what could be characterized as the more fundamental elements of the social order—and this is so probably because they tend to compare nations at similar levels of political and economic development. Neumayer's sample is unique in that it includes a more diverse selection of countries in terms of geography and socioeconomic development.

Findings from Neumayer's analysis suggests that in a more *global* setting, factors pertaining to political governance and economic performance are important determinants of cross-national variation on lethal violence, whereas measures of equity—that is, economic inequality and welfare expenditures—are not influential. At the same time, consistent with prior research, Neumayer does find that when the sample is restricted to the developed democracies of the Western world, policies that promote redistribution of

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income and economic fairness are indeed associated with reduced rates of homicide.

It is important to note that Neumayer's study is concerned with longitudinal (or dynamic) effects, that is, with the impact of *changes* in inequality (or democracy) on *changes* in homicide rate. It is generally the case, in cross-national studies, that the association between inequality and homicide is stronger in cross-sectional (static) research designs [Messner, Raffalovich, and Shrock, 2002]. This suggests that we should probably treat inequality as a "marker" rather than a proximate cause of cross-national differences in homicide [Wikström, 2008]. Although inequitable social conditions may not be the active ingredient in cross-national differences in lethal violence, these conditions tend to coexist with the causally salient factors. For example, it may be, as Pridemore [2008:148] has suggested, that larger social structures segregate vulnerable people into environments that score high on more proximate social and situational correlates of lethal violence. As an illustration of these processes, let us take a look at homicide in Finland.

19.3.3.2 An Exception That Proves the Rule?

Despite the fact that income inequality and poverty rates in Finland are among the lowest in the world, the Finnish homicide rate is two to three times higher than in other, similar nations of Northern Europe [Savolainen, Lehti, and Kivivuori, 2008]. A closer examination of the anatomy of Finnish homicide reveals some unusual patterns. First, the rate of homicide in Helsinki, the metropolitan center of Finland, is lower than in cities like Copenhagen, Stockholm, and Amsterdam. Second, men at ages 40 and older are more likely to kill than men in younger age groups. Third, most Finnish homicides occur between friends and acquaintances and under circumstances that involve heavy drinking, typically by both the offender and the victim. In short, a typical Finnish homicide is the outcome of a drunken dispute among socioeconomically marginalized middle-aged men living in the rural peripheries of the country.

As a possible explanation for this curious homicide pattern, Savolainen, Lehti, and Kivivuori [2008] refer to the shortcomings of the Finnish welfare state. By offering generous welfare benefits instead of job opportunities to large numbers of unskilled and unmarried men living in the economically declining regions of the nation, the Finnish government perpetuates a lifestyle dominated by idle consumption of alcohol in private settings. With low probability of outside intervention, these intoxicated interactions between unattached men generate frequent disputes, some of which result in lethal outcomes.

It is quite clear that although these men are socioeconomically disadvantaged—at least for Finnish standards—they do not kill for money. Their basic needs (housing, income, health care, etc.) are met by the generous

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welfare state. The critical factors in terms of causal explanation are situational: the *routine activities* associated with this lifestyle include frequent exposure to motivated offenders (intoxicated men with low stakes in conformity) and suitable victims (intoxicated, sometimes physically disabled) in the absence of capable guardians or handlers (spouses, conventional others, bar owners, etc.). This pattern of economic dependency, combined with alcoholism and family disruption, appears to have a lot in common with the etiology of lethal violence among Native Americans [Bachman, 1992; Doob, Grossman, and Auger, 1994]. It has also been suggested that the economically challenged areas of the former East Germany are afflicted by similar problems [Oberwittler, 2004b].

The purpose of this example is to show that a lifestyle, or a "subculture," of lethal violence can emerge even in an economically equal and socially supportive society. Ecologically and demographically, the Finnish homicide problem is radically different from that of, for example, the United States, where most incidents take place in urban centers by young males, and often in the context of another crime such as robbery or a drug trade [Savolainen, Messner, and Kivivuori, 2000; Zimring and Hawkins, 1997]. However, *in both cases*, we are dealing with the same set of explanatory factors, most notably poor integration into the conventional way of life as a result of joblessness, weak family ties, and spatial segregation [Sampson, 1987]. As a rule, it appears that these social conditions are more prevalent in nations characterized by increased levels of inequality and weak systems of social support. However, as an exception that proves this rule, the same processes also explain the unusual pattern of lethal violence in Finland, a nation with minimal levels of inequality and poverty.

19.3.4 Social Class and Victimization

The nearly exclusive focus on homicide is an obvious limitation with cross-national studies of social class and crime. Can these findings be generalized to other types of crime, such as property crime and nonlethal assaults? The International Crime Victims Survey (ICVS) provides an opportunity to examine these questions with nationally (or regionally) representative samples of respondents from more than 40 nations. Taking advantage of the multilevel design of this database, Paré [2006] has examined the effects of social class as an individual-level attribute (e.g., low income) and as a national-level characteristic (e.g., economic inequality) on physical assault, robbery, theft, and burglary.

Consistent with recent studies of homicide, he finds that poverty, but not inequality, is related to cross-national differences in each type of property crime. However, there was no association between poverty (or inequality) and violent victimization, a finding that seems to be at odds with the research

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on homicide. Of course, homicide is an extreme form of violence, reflecting extreme levels of social dislocation. It is possible that the relatively small and nationally representative samples featured in the ICVS are unable to capture a sufficient number of individuals from these hard-to-reach underclass populations. For example, we know that despite its enormous resources, the U.S. Census Bureau struggles to provide an accurate count of people living in the most disadvantaged areas of the nation [Ong and Houston, 2002].

Regardless of *national* levels of inequality or poverty, Paré finds that low SES, as an individual-level attribute, is associated with increased levels of violent victimization (physical assault) in this multinational study. By contrast, all else being equal, poor people are *less* likely to be victims of theft than their more affluent peers. The explanation for this latter finding seems intuitive: poor people are less likely to have things that are worth stealing.

Research based on data from Sweden finds that the risk of violent victimization is significantly higher among individuals in the bottom fifth of the income distribution [Nilsson and Estrada, 2006]. Moreover, the class-difference in violence has increased substantially in the past 20 years. During this period, as the class difference in property crime victimization has disappeared, poor Swedes have lost the only "advantage" in victimization they used to have. The growing concentration of victimization among the lower classes has also been documented in the United States [Thacher, 2004]. A study of American adolescents finds that the risk of violent victimization increases sharply at extreme levels of neighborhood disadvantage [Lauritsen, 2003].

19.4 Conclusion

Most theoretical explanations of crime assume that low socioeconomic status contributes to criminal behavior. Research based on self-report studies of adolescent delinquency has forced criminologists to examine this assumption more carefully. In light of current evidence, the association between social class and crime depends critically on the operationalization of these concepts. *Clear and consistent class differences emerge in research designs that focus on variation at the lower end of the socioeconomic scale and the higher end of the offending behavior.* In other words, there is a strong association between chronic poverty and serious street crime.

The notion that crime responds to concentrated forms of social dislocation—poverty, segregation, and neglect, for example—is familiar from a long tradition of community-level studies conducted mostly in the United States. Recent research in comparative criminology suggests that similar processes may also explain cross-national differences in homicide (and possibly other forms of crime). An increasing number of studies find that the well-documented link between inequality and homicide is a function of cross-national differences

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in poverty. Nations with a large underclass—segments of the population that are chronically excluded from the mainstream way of life—tend to generate excess levels of lethal violence. It is not the mere distance between the rich and poor but the inadequacies of the socioeconomic safety net that seem to contribute to international differences in crime and violence.

Thus, evidence from each level of analysis—individual, community, and cross-national—points to the same conclusion. Social class is not related to crime in a steady, linear or incremental fashion. Instead, there is a sharp qualitative difference between "the truly disadvantaged" [Wilson, 1987; Bernard, 1990] and the rest of the population. This pattern is summarized in Figure 19.5, which shows a modest increase in criminal activity as we descend below the midrange of the socioeconomic ladder, followed by a sharp upturn as we reach the very bottom of the rung. This graph is not based any single study but captures the shape that has been documented in several sources, ranging from individual studies of criminal convictions in Denmark [Kyvsgaard, 2003] to community-level studies of adolescent victimization in the United States [Lauritsen, 2003].

19.4.1 The Meaning of Social Class and Crime

Although criminological research has helped to specify the shape of the association between social class and crime, the theoretical *meaning* of the finding

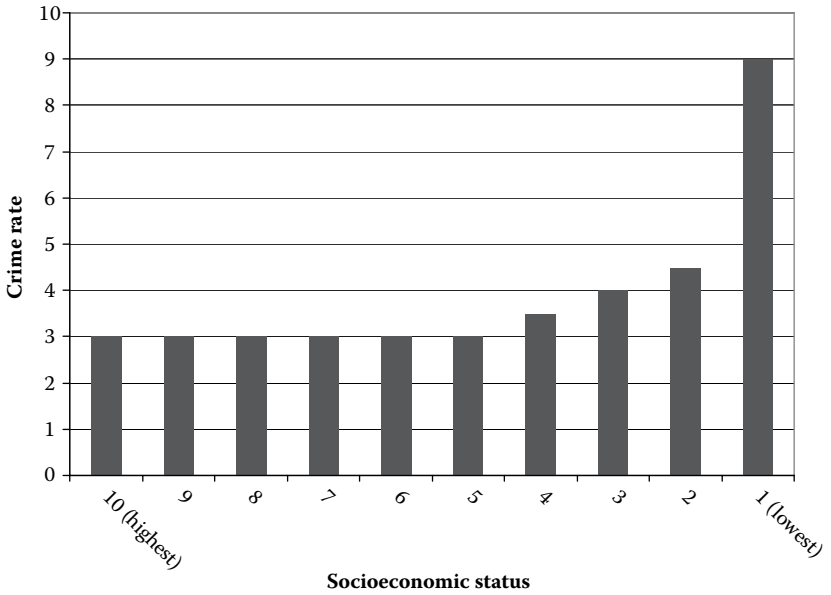


Figure 19.5 A theoretical illustration of the nonlinear relationship between social class and crime.

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remains contested. Thus this review concludes by identifying some common threads from various studies and suggesting promising avenues for the next generation of research.

The causal mechanisms articulated in social bonding theory seem particularly fitting for efforts to summarize current knowledge about social class and crime. *Concentrated and persistent forms of social disadvantage are criminogenic because they undermine the formation of social ties necessary for effective informal processes of social control to materialize.* At the level of communities, this idea is captured by the theory of collective efficacy, which argues that residents' willingness to intervene for the common good (e.g., willingness to interfere with teenage drinking) is the critical difference between high-crime and low-crime neighborhoods [Sampson, Raudenbush, and Earls, 1997]. At the cross-national level of explanation, institutional anomie theory argues that insufficient public investments in institutions like the family and schools erode their pivotal role as agents of social control [Messner and Rosenfeld, 1997]. Finally, longitudinal studies of adolescent development emphasize the role of family processes as the primary explanation for the effect of social class and criminal behavior [Skardhamar, 2009]. Prolonged economic hardship is frequently associated with parental hostility, poor discipline, and increased conflict between parents and children [Rutter, Giller, and Hagell, 1998:199–202]. Low family cohesion and weak attachment to parents make it easier for a juvenile to neglect ties to the family and other such conventional institutions as school and other supervised activities and to cultivate associations with delinquent peers.

19.4.1.1 Selection or Causation?

Two institutional contexts, the family and employment, appear to be particularly important in explanations of the effect of social class on crime. It seems that a strong attachment to a spouse (or parents) and having a decent job (or educational aspirations) serve as protective factors against the criminogenic influence of low SES. The fact that these attributes are rarely compatible with underclass status explains its strong association with criminal offending.

Assuming that a major share of the class effect on crime is *statistically* mediated by ties to family and work, we are left with two possible explanations for these processes. The dominant assumption in the literature suggests that low SES contributes to weak institutional attachments (see Figure 19.6 for social causation models). It is more difficult for a socioeconomically deprived individual to find a job, get married, and raise a family. As an alternative hypothesis, it is also possible that this association is spurious; that is, perhaps both variables—weak ties and criminality—are caused by some third set of factors (see "social selection" in Figure 19.6). For example, the general theory of crime argues that low self-control is the common cause of both low socioeconomic attainment and criminality. According to Gottfredson and

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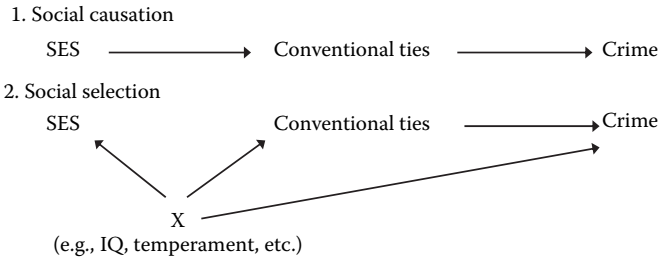


Figure 19.6 Social causation and social selection models of SES and crime.

Hirschi [1990], low self-control emerges in early childhood as a consequence of ineffective child rearing. It is, of course, possible that stressful conditions resulting from economic hardship influence parenting (see earlier). On the other hand, research by Wright and Beaver [2005] finds that much of individual-level variation in self-control may, in fact, be of genetic origin.

In general, a number of studies suggest that such heritable traits as low IQ account for a major share of the effects associated with parenting and other family variables [Rowe, 2002:11–13; Rutter, Giller, and Hagell, 1998:201–2]. Low IQ is also associated with low SES [Rowe, 2002; Caspi et al., 1998]. Adoption studies find that the socioeconomic status of the biological parent is strongly related to criminal behavior in the offspring [Rutter, Giller, and Hagell, 1998]. A recent longitudinal study of monozygotic (or "identical") twins—a research design that essentially controls for the influence of the genetic makeup—reports "negligible" parenting effects on delinquency [Wright et al., 2008]. On the other hand, Guo, Roettger, and Cai [2008] find that such family characteristics as shared meals and family structure buffer the impact of genetic variants related to criminal propensity. The study of gene-environment interactions is a relatively underdeveloped field in modern criminology. Given the importance of the family context in the etiology of criminal behavior, it seems clear that more research of this variety is needed.

19.4.1.2 Forget SES: A Provocation

At the conclusion of this review, it seems appropriate to reflect critically on the value of research on social class and crime. From the perspective of public policy and social justice, it is obviously important to pay attention to race, class, and gender differences in the treatment of offenders *in the criminal justice system*. For example, as Bruce Western [2006] has demonstrated, in the United States, penal policy has become a powerful instrument in the reproduction of persistent and gross social inequalities. However, if we are interested in the etiology of criminal offending—that is, in the the causes of crime—is it productive to organize this effort around received categories like social class?

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No credible theory argues that social class is a *direct* cause of crime. All theories propose a lengthy chain of causation featuring a number of more powerful predictors than social class. For example, evidence from several studies suggests that weak ties to institutions of informal social control mediate a major share of this link. Would it not make more sense to focus on developing knowledge about these kinds of processes and stop worrying about the distal contribution of social class?

There do not appear to be compelling theoretical reasons to pursue class-based explanations of criminal behavior—other than an intrinsic interest in issues like poverty and social stratification, shared by many sociologically trained criminologists [Hagan, 1992]. If the goal of criminology is to generate knowledge about *causal mechanisms*, it is necessary to move beyond the risk-factor paradigm that merely identifies "significant" predictors of crime and delinquency, like age, gender, race, and SES [Wikström, 2008]. Moreover, as a matter of criminal policy, if the goal is to reduce crime in our lifetime, targeting a slow-moving entity like the class structure of society is unlikely to yield desired results. Note that the approach based on proximate causes is not at all inconsistent with socially supportive policies. For example, research may identify *learning disabilities* as a major predictor of criminal behavior. An appropriate policy solution might involve improvements in early childhood education among the most vulnerable populations [Farrington and Welsh, 2007]. Helping the poor is likely to emerge as an evidence-based implication of scientifically sound criminology—but one doubts it should be its theoretical premise.

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Youth Gangs in a Global Context

20

JUANJO MEDINA ARIZA

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20.1 What Are Gangs?

Despite its long history in American criminology, defining gangs is a highly controversial matter. So much so that some researchers favor abandoning the concept, or at least limiting its use by criminal justice and social service agencies [Marshall, Webb, and Tilley, 2005; Sullivan, 2006; Bullock and Tilley, 2008]. Such is particularly the case in Europe, where researchers and policymakers have only recently begun to use the term to refer to groups of young delinquents, and where many remain unconvinced of the policy usefulness of the concept. Three main reasons explain such focus on gangs as a driver of policy: (1) the vagueness of the concept; (2) its potential for simplifying, stereotyping, and stigmatizing youth, particularly of ethnic minorities; and (3) the danger of overidentification, reification, or strengthening of gangs by programs and interventions aimed at dealing with them.

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Nevertheless, as we will see, there are factors that make it difficult for social scientists to avoid this concept, critically or otherwise:

- As reported by an increasing number of studies, elements of so-called gang culture have penetrated the discourse of young people across the world.
- Self-report surveys and ethnographic research in many countries have documented the presence of young people claiming gang membership or involved in gangs.
- An increasing number of studies suggest that gang involvement may "emotionally and symbolically sustain barriers to mobility" [Katz and Jackson-Jacobs, 2003:117], and it may also be associated with negative developmental outcomes [Thornberry et al., 2003], including offending and having a negative impact on the economic trajectories of individuals [Levitt and Venkatesh, 2001].
- Such groups have material negative impact on the communities in which they exist (e.g., fear, victimization, and mobility restrictions).
- Moreover, a fascination with gang stereotypes by the media has led to a high profile in the political agenda and a distorted presentation of what gangs are about. Such impact, in turn, is likely to result in inadequate policies.

So, what are gangs? Criminologists have been arguing about this point for over 100 years; such lack of agreement is still a matter of violent disagreement among experts. In fact, there is not even agreement as to whether crime should be a key element of the definition of gangs [Short, 2007].

A definition increasingly being used in comparative cross-national research is that provided by the Eurogang Network, an international group of social scientists from Europe and the United States, which has, since the mid-1990s, been working toward developing protocols for cross-national gang research. This group considered that the only way to make progress in the field was to produce a consensus definition guaranteeing that researchers doing "gang" research in different localities were actually studying the same sort of youth formation.

The consensus definition elaborated by this group posits gangs as "any durable street oriented youth group whose involvement in illegal activity is part of their group identity." The key elements of the definition are further defined as follows:

- *Durability* means the existence of at least several months and refers to the group, which continues despite turnover of participants.
- *Street oriented* means spending a lot of group time outside home, work, and school—often on streets, in shopping areas, in parks, in cars, and so on.

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- *Youth* refers to approximate average ages in the teens or early twenties.
- *Illegal activity* generally means delinquent or criminal behavior, not just bothersome activity.
- *Identity* refers to the *group*, not individual self-image.

Although this definition has now been adopted in a number of studies in Europe and America, a hundred years of debate about concept and definition will not go away easily and there are, indeed, issues that continue to be debated.

20.1.1 Are Gangs a Qualitatively Different Type of Grouping?

In the seminal meeting of the Eurogang group, the answer to this question was one of the most controversial points [see Klein et al., 2001]. Among the Europeans, the dominant view was that gangs are essentially part of a continuum of youth groups that simply present a more complex set of problems and a stronger delinquent orientation. Among the Americans, the dominant view, expressed in a more articulated way by Malcolm Klein, was that gangs represent a qualitatively distinct type of grouping [ibid.]. This would be an instance in which, following Hegelian logic, differences in quantity reach such a threshold that they become differences in quality. For Klein [1995], when criminal activity reaches such a point that it comes to define the group identity, that threshold is crossed; it is a tipping point with important group-dynamic implications. In these circumstances, he talks of group dynamics that incite the development of an *oppositional culture*: "No matter what you do with them (police harassment, outreach workers), it will boomerang on you; they will use it to strengthen their cohesiveness. They will use it to justify they are special." He also notes two additional characteristics that mark gangs as qualitatively different from other youth groups: images of violence and social marginality as unifiers. Such groups often talk about violence, the perceived threat of violence, and their own social exclusion and discrimination in ways that help to reinforce their ties to the group. The idea of conflict as a feeder of gang identity is something that was already in the writings of Thrasher and has continued to be one of the pivotal points of gang studies. As Klein [ibid.] emphasizes, there are no cities with just one gang; gang conflict seems central to the development and formation of gangs.

The Eurogang definition makes no references to tipping points, only to group identity around crime. But what exactly is this—tolerance? Exhortation? By how many in the group? And to what degree? When such a tipping point is reached is not clear. It is easier to talk about the tipping point than to measure it in practical ways.

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20.1.2 Problems in the Borders: The "Discriminant Validity" of the Definition

Although the Eurogang definition set important markers for identifying gangs, many researchers seem to struggle with the clear black-and-white picture the concept presents, and they argue for a more complex reality. The key component of the definition that distinguishes gangs from other groups of teenagers that hang around in the street seems to be the matter of criminal orientation. This is something that troubles some researchers. For them, the problem with the definition is that it puts too much emphasis on the criminal aspects of young people and that it may inadvertently contribute to reinforcing negative racial and ethnic stereotypes. In a context in which negative stereotypes of adolescents prevail and criminal justice responses toward young people's behavior seem to become sharper in a context of declining or stable offending trends, the new focus on delinquent youth groups is perceived as justifying these negative responses. From this perspective, the problem with the concept of gangs is that it is operationally, and from a practitioner's point of view, very difficult to ascertain at what point a group of young people, some of which surely commit offenses, can be deemed a gang [Bullock and Tilley, 2008].

In the United Kingdom, Hallsworth [2004] argues that we need to distinguish street peer groups, relatively small unorganized transient peer groups with a common space and history, and with involvement in crime that is neither serious nor integral to its group identity, from "gangs," defined by Eurogang criteria. These are what Sullivan [2006] refers to as "cliques." The Youth Justice Board, in turn, reflects that its practitioners see gangs as delinquent youth groups that engage in more serious and/or intense forms of delinquent or criminal behavior; not all criminal group orientations would lead to the gang definition, only those that cross a threshold of seriousness. Some authors argue that "while these distinctions seem to us to be clear and sensible, the criteria for identifying instances of each in practice are less clear" and that "with such ambiguity surrounding 'gangs' and continuing problems of definition, a solution might be to abandon the use of the term and focus instead on the problem *behavior,* prolific offending of varying types and seriousness amongst associated networks of individuals" [Marshall, Webb, and Tilley, 2005:6–7; YJB, 2007; Bullock and Tilley, 2008].

It seems clear from the foregoing proposed typologies and distinctions that one of the problems with the holy grail of the Eurogang definition is the operationalization and measurement of that tipping point, at which the nature of the group identity comes to be defined in a critical way by its criminal orientation. Failure to develop an appropriate measure or tool to capture this may lead to the problem of overidentification and reification.

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This, however, is not an easy matter. Most self-report surveys tend to detect a large prevalence of offending during adolescence and young adulthood. Given this, it is not surprising, then, to find that most networks of young people include individuals who have engaged in some form of offending. Data from the *Add Health* study in the United States suggest that only 16% of youth networks have no delinquents, with most such networks (56%) being mixed (with both delinquents and nondelinquents). Critically, 28% of these networks were composed solely with delinquents. What percentage of these mixed youth groups or all-delinquent groups are gangs? How do we come out with a convincing and clear criteria to make the distinction? Given these ambiguities, it is not surprising that different researchers describing the same local contexts come to different conclusions as to whether gangs exist in those areas or not [Sanders, 2005; Pitts, forthcoming, portrayal of the same area of London].

20.1.3 Diversity

Perhaps one of the problems with the gang concept, as currently used, is that it encompasses a very wide range of groups with different structures and configurations. The portrayals of the business-minded drug dealing of Chicago gangs by Venkatesh [2008] and Padilla [1992] refer to a structure and type of group very different from the more amorphous delinquent juvenile gangs described by Fleisher [2000] in Kansas. Fleisher's portrayal, in turn, also seem to be different from that of the intergenerational Latino gangs in Los Angeles described by Moore [1991], which also seem somehow to exhibit less of the clear connections to organized crime than those groups described by Chin [1996] in New York's Chinatown. And the list could go on. Some researchers even argue we should talk about gangs in an even broader sense, to refer to any form of "angry" or "violent" group response to marginalization across the world [Hagedorn, 2008].

Confronted with this variation in patterns of structure and identification processes, some researchers wonder whether we can assume some sort of universal essence underlying gangs and warn of the dangers of reification [Sullivan, 2006]. Given the wide variety of forms that gangs can take, perhaps we should not be surprised about the difficulties in generalizing or in finding agreement among researchers. As some have observed, "If there is any constant in today's gangs around the world, it is their changing forms" [Hagedorn, 2008].

There have been various efforts to produce classification and gang typologies. At the very least, there is some consensus that at one extreme, we have the more exceptional and entrenched "institutionalized gangs," as reported in Chicago and Los Angeles and parts of Latin America, but also in some

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European settings. These gangs have strong links with the community, have a stronger identity, and have persisted for a long time. At the other extreme, we have the looser, amorphous juvenile gangs most commonly found in studies conducted in the United States and Europe.

Klein and Maxson [2006] are the proponents of one of the few empirically grounded typologies of gangs. They distinguish between five gang types: traditional, neotraditional, compressed, collective, and specialty gangs, as summarized in Table 20.1.

Table 20.1 A Comparison of Types of Gangs

Traditional gangs	Have long history (20 years or more) and keep regenerating themselves
	Contain fairly clear subgroups, usually separated by age or territory
	Wide range of age among members (9–10 years of age and into the thirties)
	Usually very large (100 or more)
	Almost always very territorial
	Diverse offending
Neotraditional gangs	Shorter history (No more than 10 years, often less)
	Medium size (50 to 100) or larger (100 or more)
	May have subgroups, but sometimes not
	Very territorial
	Could become traditional with time
	Diverse offending
Compressed gangs	Short history
	Small (no more than 50)
	No subgroups
	Age range is possibly narrow (10 years or less between oldest and youngest)
	Possibly territorial, but not necessarily
	Unclear whether they will grow and solidify into neotraditional forms
	Diverse offending
Collective gangs	Similar to compressed gangs, but with wider age range
	Can have fewer than 100 members, but probably more
	Usually in existence 10–15 years
	No subgroups and may not be territorial
	Shapeless mass of adolescents without distinguishing characteristics of other gangs
	Diverse offending
Specialty gangs	Narrow crime focus
	Small (50 or fewer)
	Without subgroups
	Short history (less than 10 years)
	Territory (residential or based on opportunities)
	Normally limited age range

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There have been few efforts to empirically validate this typology outside the United States. The increasing use of self-report surveys, which include measures of the critical markers of this typology, will soon permit more rigorous assessement the sort of structures that are more common outside the United States. In the meantime, rough assessments based on readings of the evidence seem to suggest that in Europe, traditional gangs are the exception rather than the norm, with the compressed and the specialty gangs the more common across the continent [Klein, Weerman, and Thornerry, 2006]. In many ways, this diversity in gang formations represents a unique opportunity to assess how different local contexts result in different processes of youth adaptation. It could be argued that comparative research assessing these issues may contribute significantly to the theoretical understanding of social exclusion of youth and of the gang phenomenon [Klein, 2006].

20.1.4 Ambiguity Is Unavoidable

Katz and Jackson-Jacobs [2003] have argued that gangs are "inherently amorphous phenomena" and that when they are not, something else is under discussion (i.e., a drug-marketing organization). Indeed, most gang researchers would agree that most gangs are indeed such amorphous phenomena. Their own descriptions constitute the main empirical support for such an assertion. For Klein and Maxson [2006:164]:

> In most street gangs, leadership is ephemeral, turnover is often high, and cohesiveness only moderate. Codes of conduct often exist in rhetoric but are easily avoided or broken. Many street gangs are more a loose collection of cliques or networks than a single, coherent whole. Further, in the majority of gangs, median individual membership lasts only about a year. This high level of turnover challenges any notion of stable structure.

There is, in fact, a growing call among gang researchers to question the idea of gangs as clearly defined groups. Fleisher's work [2000; 2006] using social network analysis methods in the study of gangs has been critical in this sense. His work questions the use of "gang" as a personal attribute or status, rather than as a relational characteristic, and has documented that gangs are not closed groups but, rather, complex, interwoven networks of relations with others "inside" and "outside" the gang [Fleisher, 2000:203]. From this point of view, gangs have permeable and flexible boundaries that are difficult to capture. Lien [2005] has also suggested abandoning the idea of the gang as a bounded group and, instead, develop what she calls a "cybernetic multidimensional network model" that could permit understanding the intersection between the gang, kinship structures, and others in the community. Although there is a tendency in some gang research to talk about

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gang identities as master identities that control the life of those who claim membership, what these researchers seem to be suggesting is that things are much messier, with different identities and networks becoming relevant, depending on situational contexts. From this perspective, then, it is argued that gang researchers should embrace the ambiguities associated with street gang identity.

20.1.5 Change and Gangs

To add to the confusion, gangs are not clear, stable entities. They change. Gangs may change from one form to another or into something totally different. Some researchers have described how small territorial gangs have transformed into larger, more organized criminal gangs [Salagaev, 2001] or, if not more organized, more business minded [Rodgers, 2006]. The opposite transition, from a business-minded drug-dealing model into an amorphous but entrenched pattern of a fighting group, has also been reported in the literature [Aldridge and Medina, 2007]. The study of gang transitions and of the factors that shape them is an area that deserves more attention.

20.2 Offending and Gangs

Although most researchers agree that gang-involved youth spend more time "hanging than banging" [Klein 1995; Decker and Van Winkle, 1996], it is equally clear that one of the reasons researchers focus their attention on gangs is their impact on offending. Studies conducted in a variety of countries clearly document that there is a link between gang involvement and offending. Klein and Maxson [2006:72] refer to this link as the "most enduring finding in gang research." Self-report surveys that contrast the prevalence, seriousness, frequency, and variety of offending by gang members with other youth, even when controlling for the effect of delinquent friends, suggest that young people who define themselves as gang members disproportionably engage in delinquent behavior. Researchers also report that the increasing complexity of gang organization also leads to increases in the level of offending by these groups [Esbensen et al., 2001; Decker, Katz, and Webb, 2008]. This relationship seems to be independent of the community context; in other words, "even though disadvantaged neighbourhoods are home to more gang members and present more risk factors for delinquency, the gangs' capacity to encourage delinquent behaviour is not remarkably stronger in these areas" [Hall, Thornberry, and Lizotte, 2006:60]. The correlation between offending and gang status has been reported not only in the United States but also in any other countries where the issue has been studied. Moreover, the relationship between offending and gang involvement still holds when

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we control for other risk factors for offending and when we use measures of gang involvement different from self-definition [Sharp et al., 2005]. In fact, research has also suggested that the link with crime extends to a greater likelihood of victimization [Peterson, Taylor, and Esbensen, 2004].

Yet, it would be misleading to think that all gang members engage in offending behavior. The Offending Crime and Justice Survey documented that although gang members are three times as likely than other youth to have committed any offense, or a serious offense, in the previous 12 months and five times as likely to have engaged in frequent offending, some 40% of gang-involved youth had not committed any offencs in the previous 12 months. In other words, we cannot assume a perfect correlation between gang membership and offending. The correlation is far from perfect, even when we observe samples of high-risk youth, as in the case of the Rochester Youth Development Study in the United States [Bjerregaard and Smith, 1993; Esbensen and Huizinga, 1993], or whenever prevalence of offending is used [Thornberry et al., 2003]. Young people who associate with gangs may be making negative decisions as to whom they associate with, but they are not necessarily criminals, and certainly not all the time. Any policy or practice that assumes otherwise is, in effect, criminalizing young people.

Analysis of both official statistics and survey data suggest that gang members also commit a disproportionate share of offenses. The new ADAM survey of arrestees found that gang members comprised 15% of their sample of arrestees but were responsible for 31% of all reported offenses (and 89% of all robberies). Survey data also find similar patterns. In Rochester, young people during periods of gang membership were responsible for approximately four times as many offenses as their share of the population [Thornberry et al., 2003]; in particular, they were responsible for 86% of all serious offenses and 69% of all violent offenses [Thornberry and Burch, 1997]. Data from the Offending, Crime and Justice Survey suggest that the 6% of the 10–19 age group involved in delinquent groups were responsible for about a fifth (21%) of all core offenses committed by this age group. Those individuals involved with such groups were responsible for a disproportionate share of serious offenses (23%), violent offenses (20%), and property offenses (30%) committed by this age group. In light of this evidence, it is not totally surprising considering the interest in gangs and gang-affiliated youth by government agencies.

For the most part, gang offending follows what Klein calls the "cafeteria style"; most studies suggest such offending is diverse and rarely specialized [Klein and Maxson, 2006]. Survey data suggest that gang-involved youth commit a rather diverse profile of offenses, from vandalism to injurious assaults. This is the case when we look at individual and group offending. Data from the Offending Crime and Justice Survey suggest that common offenses committed with the group include threatening or frightening people

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(43%), drawing graffiti (36%), vandalism (31%), and using force or violence (29%). Although drug dealing and weapon carrying are often perceived to be common gang activities, only a fifth of those belonging to delinquent youth groups reported that their group collectively engages in drug selling or carried weapons. This sort of pattern is consistent with the view that "the vast majority of gangs are adolescent peer groups that have been socialized to the streets. In other words, gangs today are mainly made up of *kids* like they always have been, who are displaying, *normal deviance*" [Hagedorn, 2008:132].

Depending on the sample and definitions, however, one can find more serious patterns of offending. Bjerregaard [2002], using survey data from inner-city American sites, suggests patterns of group delinquency for "organized gangs" that emphasize robberies (42%), burglaries (41%), assaults (66%), and fighting other gangs (82%). Decker, Katz, and Webb [2008], using a sample of arrested gang members, report even more serious patterns of violent behavior. Sampling and definitions obviously matter in this regard. Equally, more "entreprenurial gangs," or gangs that have become more institutionalized, often engage in more serious patterns of criminal behavior, including extortion of local businesses [Chin, 1996; Medina and Mateu, 2007] and drug dealing [Padilla, 1992; Venkatesh, 2008].

In a similar vein to the debates about the assessment of the impact of delinquent peers, there have been debates about whether the correlation between gang involvement and offending indicates a criminogenic nature of gangs. Do gangs cause offending? This is a question that may be examined at the individual level, by assessing if gang involvement increases offending for individuals, and at the aggregate level, by assessing if gang presence increases offending and victimization in communities. If individual gang involvement is associated with increased offending, one would expect that others things being equal, an increase in gang membership in a given community would translate into an increase in the overall level of offending in the community. Some authors argue, however, that apart from highlighting the correlation between individual offending and gang involvement, criminologists have paid insufficient attention to the question of causality [Kats and Jackson-Jacobs, 2003].

At the individual level, several efforts have been made to address these questions with longitudinal data. Some authors that have tried to assess whether gangs exercise a selection effect (the correlation between gangs and offending is the result of similar people coming together), facilitation effect (the gang actually facilitates delinquent behavior, for example, through the transmission of values or lifestyles), or enhancement effect (there is a combination of both selection and facilitation components: gang-involved individuals are particularly prone to offending, but during gang involvement their offending profile is even higher). The longitudinal data from Rochester,

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Denver, Pittsburgh, Montreal, and Seattle indicate a complex pattern for various types of offenses [Esbensen and Huizinga, 1993; Lacourse et al., 2003; Gordon et al., 2004; Thornberry et al, 2003]. Pure selection does not seem to be the mechanism explaining the relationship between offending and gang involvement. Depending on the study and the type of offending, enhancement or facilitation seems more relevant.

An interesting alternative that has not been sufficiently explored by means of quantitative analysis is to what degree the linkage between gang involvement and offending is part of a self-fulfilling prophecy. Katz and Jackson-Jacobs [2003:108–9] have argued that gang members may become criminal because they are viewed as such and are responded to accordingly by the police and community, including their associates, on the basis that they are criminal:

> Someone styled as a gang member is especially likely to be solicited by a would-be drug buyer, attacked in a preventive defensive strategy by someone anticipating being attacked, and focused upon and then arrested by the police. Thrown into jail because of police responsiveness to gang symbolism, youth come to need strong ties with peers in order to mount an intimidating, aggressive posture toward other peers. In this scenario, gangs do increase criminal violence, but the increase develops because of the general belief that gangs do increase criminal violence, a belief that gang criminology helps sustain.

Some ethnographic research suggests this scenario requires more attention. Aldridge and Medina [2007] found in their study of gangs in an English city that the police focus their attention on young people without criminal records for the simple fact that they have family or friendship links with "recognised gang members." Rival gangs also often make such presumptions about gang membership. Moreover, testimonies and observation of life events in young adults with a past of gang involvement suggest that past involvement casts a long shadow over efforts to go straight. Because of past gang involvement, former gang members have been tempted with criminal opportunities by others and often viewed with great suspicion and mistrust by the police.

There have been fewer studies trying to assess the degree to which gang presence has an impact on community crime rates. The patterns of gang proliferation measures on surveys of police departments during the 1990s in American cities seem to have been the opposite of crime patterns during that period. As Klein and Maxson [2006] have noted, the police-recorded number of gangs is a blunt measure of gang activity, yet if gangs were proliferating to that degree during the 1990s, should we not expect some level of impact on aggregate crime levels? Equally, although European cities have been reported as presenting an emerging gang problem over the last decade, the fact is that crime has also been going down in most of Europe. Sullivan [2006:34]

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suggests that what may explain this anomaly is simply the fact that "gang emergence can be just as much a matter of putting new labels on continuing patterns of activity."

Tita and Ridgeway [2007] have explored data from Pittsburgh to assess the impact of gang formation on local levels of crime. They found very limited support for the impact of gang formation on citywide levels of crime, but they argue that looking at too aggregate a level may hide local patterns of association. A closer analysis of local patterns suggest that gangs tend to form in high-crime areas that continue to experience high levels of crime after gang formation. On the other hand, the presence of gangs in some communities serves as a crime attractor or generator, increasing gun crime and drug-dealing activity, even if it did not have an impact on levels of burglary, robbery, and assault. In sum, they reported that the emergence of gangs in Pittsburgh greatly affected levels and patterns of gun-related crimes, but not other types.

20.3 Understanding Gang Involvement

Decker and Van Winkle [1996] talk about the process of joining gangs as the result of a confluence of pulls, attracting individuals to the gang (e.g., an opportunity to make money or to increase local status), and pushes, compelling individuals to join (e.g., the perceived need for protection). Depending on the location of the studies, researchers have found that gang-involved youth seem to give priority to different reasons when explaining their involvement. In some studies, having friends or family in a gang is the key factor, with the need for protection given very little prominence [Thornberry et al., 2003]; whereas in other studies, the perceived need for protection seems to be more important [Esbensen and Peterson, 2001].

For most gang-involved youth, this involvement is simply a development of associational ties from school or the neighborhood. American researchers suggest, however, that the process of joining is often accompanied by initiation rituals. Decker and Van Winkle [1996] report that over 90% of their sample of gang members in St. Louis indicated that they had participated in such a ritual. Other surveys [Winfree et al., 2007] suggest a much lower prevalence of initiation rituals among American youth claiming gang membership (40%), and even lower, almost nonexistent, prevalence among European youth (11% to 18%). Studies from Central America also suggest high levels of initiation rites [Medina and Mateu, 2007].

Considerable research has focused on trying to understand the risk factors for gang involvement. Most such studies are based on self-report surveys and have been carried out in the United States, among them the Seattle Development Study, the Rochester Youth Study, the Pittsburgh Youth Study, and the national evaluation of G.R.E.A.T. (Gang Resistance Education

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and Training). A growing number of studies assessing such risk factors have also been conducted in Europe, among them the Edinburgh Study on Youth Transitions and Crime, the British Offending Crime and Justice Survey, and the most recent ISRD (International Self-Report Delinquency) study; surveys have also been conducted in the Netherlands [Weerman and Esbensen, 2005] and Germany [Huizinga and Schumann, 2001]. Typically, these studies select risk factors from a variety of domains, normally including the area or neighborhood, the family, the school, peers, and individual characteristics, and they assess the degree to which the factors are correlated with gang involvement, either cross-sectionally or longitudinally.

Klein and Maxson [2006:142–61] have reviewed 20 such mainly American studies, which they selected because of their methodological rigor, and reached some key conclusions:

- There are few factors for which we find consistent support across studies. This could be related either to study design variations or to complex patterns of relationships.
- School and area characteristics have not received the same degree of attention as other risk factor domains; despite the theoretical emphasis that these contextual characteristics receive in the literature to explain the emergence of gangs in some community. To the degree that area characteristics have been investigated, there seems to be little support for them as explanations of "individual-level joining."
- Within the individual and the family level, the factors that seem to receive more support are externalizing behavior (reactivity, aggressiveness, and impulsivity), parental supervision practices, and positive attitudes toward delinquency. These are all factors that overlap with those identified for persistent and serious offenders.

Research in the area also seems to suggest that the larger the number of risk factors, and the larger the number of domains, the greater the risk of gang involvement. Young people are resilient, in terms of joining a gang, when the levels of risk are low; but the odds of gang involvement increased substantially as the level of risk increases, particularly when the factors cut across several domains (individual, school, family) of the young person's life [Thornberry et al., 2003]. Nonetheless, it is also important to highlight that even among youth who present a high level of risk factors, the majority are not in gangs. Only 40% of the youth with five to nine risk factors who were interviewed by the Offending Crime and Justice Survey were identified as gang members [Sharp et al., 2005]. Any prediction based on knowledge of risk factors is, thus, likely to be limited.

What to do with risk factors? Many researchers argue that risk factor research, while helpful, is very limited in that it does not adequately reflect

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the complexity and dynamics of gangs or the interactional and symbolic processes that come into play when a young person claims gang membership [Hughes, 2006]. Researchers often claim that knowledge about risk factors is, however, helpful in selecting clients for preventive interventions. What is more controversial is the degree to which young people should be selected for preventive programs, given their risk of gang membership. Some researchers have argued that the focus for policy should be problem behavior or offending, not gang status [Bullock and Tilley, 2008; Shute, forthcoming; YJB, 2007]. Researchers who propose this solution do so for a variety of reasons, among them:

- Preventive programs that select individuals as potential gang members may be counterproductive in that they may strengthen gang identities [Klein, 1995] or have other stigmatizing effects.
- The knowledge necessary for ascertaining risk factors for gang membership is, as we have seen, still in its infancy.
- There are serious practical difficulties in ascertaining gang membership and the related risk factors.
- And, finally, gang status is not coterminous with offending.

Some researchers conclude from this that "it may be more effective and efficient to target specific patterns of violent behaviour rather than gang membership" [Bullock and Tilley, 2008: 36]. Others argue that we should use "gang membership as a marker variable to identify youths who are in need of extensive interventions in order to minimize their involvement in delinquency," and that we should be channeling these youth to programs that have been proven to work, to prevent youth offending more generally [Thornberry et al., 2003].

20.4 Explaining Gang Formation

How and why do gangs form in specific communities? There has been a recent flourishing of publications questioning the efforts of gang researchers to adequately answer this question [Katz and Jackson-Jacobs, 2003]. Such efforts have been criticized for being too narrowly focused on criminological theories and insufficiently grounded on perspectives outside criminology and, paradoxically, for having used whatever theories were in fashion in social science and psychology to explain gang formation. Others have questioned the newly acquired prominence of individual-level questions, to the detriment of studies and theories of gang formation and their ecological context [Hughes, 2006; Tita and Ridgeway, 2007]. Gang researchers, with a few exceptions, have been accused of ignoring or only superficially analyzing

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this ecological context, the group processes of the gang, and the historical development of the gang and its members [Katz and Jackson-Jacobs, 2003; Hughes, 2006].

From the outset of gang studies with the publication of Thrasher's classic work, social scientists have associated the development of gangs with particular processes of urban development. The most influential paradigm was indeed associated with the Chicago School tradition of urban ecology and the ideas of social disorganization. There is indeed a long tradition of studies that associate gang formation with geographical patterns of social exclusion [Short and Strodtbeck, 1974; Vigil, 1988; Hagedorn, 1990]. The consensus among researchers is that gangs are an outcome of social exclusion or, in Vigil's terminology [2002], "multiple marginality."

Despite this long tradition of attributing gang behavior to processes and structural characteristics of areas, very few studies have methodically focused on these matters. Hughes [2006:40] has argued that "aside from often uncritical references to underclass theory and levels of neighbourhood disadvantage, little effort has been directed toward understanding the complex interplay between gangs and their physical and social environments … thus, research that focuses on gangs offers few insights into the conditions under which these groups emerge and take shape, expand, transform, wane and dissolve." Gang researchers have thus been criticized for paying little empirical attention to community-level dynamics and processes with an impact on both gang formation and activity. To the degree that background community factors are taken into account, these are allegedly often interpreted in purely mechanistic terms, in ways failing to explain "why a particular mode of gang organisation arises at a specific time nor why it is put into place by a particular group" [Venkatesh, 2003]. One reason for the limited progress made toward understanding how variation in ecological context may help to explain variations in gang behavior or dynamics is that gang researchers, with some exceptions, have not taken advantage of existing variations in their data, across different community contexts [Klein, 2006].

Part of the problem in assessing these issues systematically is that of measurement. Given the difficulty in defining gangs, it is not surprising that few have actually managed to develop quantitative criteria for counting gangs in existence and their relation to community crime levels. Some have tried to circumvent this by focusing on community explanations of gang crime, particularly homicide, and producing research suggesting the relevance of collective efficacy and immigration in order to understand gang crime patterns [Papachristos and Kirk, 2006]. Others have tried to use creative methods to study gang presence in neighborhoods and to study how variations in this presence are explained by the community context. Titas, Cohen, and Engberg [2005] have interviewed gang members to ascertain in what ecological niches they "set space," or hang out; after mapping these

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areas, they studied their characteristics. Their analysis suggests that gangs' street presence is explained by diminished social control—an absence of capable guardians and physical abandonment of place—and "underclass" characteristics.

Accounts that refer to just poor social capital in gang communities, however, run the risk of underestimating and undertheorizing the complex relationships that may develop between gang-involved youth and legitimate local actors. Several researchers in Chicago and Oslo have shown empirically the multilayered, almost symbiotic relationships that developed between gangs and others in the community [Pattillo-McCoy, 1999; Venkatesh, 1997; 2006; Lien, 2005]. This perspective has received particular attention in Central and South America, where many such connections are too obvious to ignore. In those regions, many authors essentially argue that gangs represent a parallel state that fills a power vacuum in the context of exacerbated social exclusion. From this perspective, state abandonment or institutional failure to instil the rule of law and to provide for the welfare of its residents permits the development of such parallel local power structures as gangs. Others, however, think that this analysis fails to appreciate how it is not simply a matter of state abandonment. This perspective highlights how state actors, among others, contribute to the development of political organizations that promote ongoing violence and that it is critical to understand the links between the legal and illegal political and economic sectors of society. Arias [2006], for example, argues that through connections to local officials and community leaders, Rio de Janeiro gangs "appropriate state power and social capital that make their ongoing criminal activities possible." The use of gangs as a way to enforce Jamaican political turfs is another instance that shows how state actors can actively promote the development of these groups. Gangs historically played a pivotal role in electioneering activity, with the support of the major political parties, particularly from the 1970s, in exchange for cover for gun- and drug-dealing activities [Clarke, 2006].

Apart from the factors so far presented, some authors have recently been using insights from critical race theory to highlight how "institutional practice, blatant societal prejudice, and the racialization of minorities as major factors toward gang formation" [Alonso, 2004]. This perspective is critical of the little attention given to racial discrimination as a useful factor in understanding the shaping of communities where gangs emerge. Hagedorn [2008] has advocated that racial identity is crucial to understanding the motivations of gangs of all ethnic groups, including those of white youth. In particular, he argues that the understanding of gangs requires the study and analysis of the history of racial, ethnic, or religious oppression and resistance. Alonso's historical account [2004] of black gangs in Los Angeles is an example of this type of research. He tries to illustrate how notwithstanding social disorganization and economic factors, the institutional racism of the police and others, the

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disruption of black community organizations and social protest movements, and the violent intimidation of those attempting to leave the ghetto have contributed to a sense of disfranchisement and alienation among young black males and led to the development of gangs. In Alonso's words [ibid.:671]:

> Such gangs did not form as a result of lower class culture, mother centered-households, deindustrialization or middle class fight. Nor did they arise in response to pressures to conform to middle class values. Rather they arose in response to much less subtle dynamics: White violence and intimidation, and the deepening racialization of inner-city youths.

Gang researchers have also suggested that cultural transmission through popular culture may play a significant role in gang formation. From this perspective, it is argued that the powerful images of Chicago and Los Angeles gangs conveyed through movies, music, Internet social-networking sites, and computer games have contributed "to provide a symbolic reference point" for territorial rivalries that have always existed in urban settings [Decker and Van Winkle, 1996]. Van Gemert's research in Amsterdam [2001] and Feixa's in Barcelona [2006] highlight the role of the media in the import of elements of gang culture and identities.

Finally, some researchers have argued that criminal justice or social service responses may actually contribute to the creation of gangs or to the strengthening of their identities. The work of Klein [1995], in this sense, was critical. Marshall, Webb, and Tilley [2005:7] have remarked how "in some cases intelligence reports create a cycle of misinformation causing gangs to be created by the police that may not actually exist." Several reports from the United States and Central America have documented how prisons have contributed, as well, to the strengthening of gang identities [Hagedorn, 2008; Medina and Mateu, 2007]. Aldridge and Medina [2007] report how the naming by the police of two of the more violent gangs in the study of an English city may have helped reinforce their group identity.

20.5 Intervention: Tackling Gangs

Klein [1995] distinguishes three major types of gang intervention programs:

- *Gang prevention programs.* These aim to identify individual- or community-level risk factors for gang formation and involvement and to develop policies directed at dealing with these factors. In relation to this type of program, Klein [1995:137] warns of the danger they present in reinforcing gang identities: "Any prevention programme that selects potential gang members and gives them special attention

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runs the risk of creating the problem it is aimed at preventing. Past programmes in Chicago, Boston, and Los Angeles seem to have demonstrated this outcome."

- *Gang reform programs.* These programs focus on gang members and aim to offer them services that may divert them from gang involvement.
- *Gang suppression programs.* These refer to criminal justice interventions aimed at more successfully policing, tracking, prosecuting, and convicting gang members (e.g., police or prosecutor gang units, legislation limiting the civil liberties of gang-involved youth, and spot checks).

Most of what we know about such gang interventions is based on the American experience. Despite all the efforts to develop gang reduction strategies and interventions in the United States, gang researchers tend to be quite pessimistic in assessing the past success of such efforts. The following comment from Thornberry and his colleagues [2003:197] summarizes well the opinion of most gang researchers:

> The ultimate message from the literature evaluating the effectiveness of gang programs is disheartening. Although numerous programs that directly attempt to reduce gangs and gang delinquency have been tried over the years, there is no convincing evidence that any of these programs to prevent, reform or suppress gang delinquency has been successful. If carefully done experimental and quasi-experimental designs are used as our benchmark of program effectiveness, there is simply no compelling evidence that they are effective. At best, some "promising" programs show signs of early or modest success. But, if we take evidence-based programming as the criterion for recommending the general implementation of a program, there are none to recommend.

Klein and Maxson's most recent review of the American literature [2006] is not too dissimilar. They conclude that (1) the lack of appropriate evaluation of gang interventions has seriously hampered the ability to learn from past experience; (2) the construction of gang-reduction programs based on conventional wisdom, rather than on an adequate understanding of gang dynamics and processes, has been a key factor in explaining the failure of past interventions; (3) most programs have tried to change individuals rather than the gang or the context in which gangs operate; and (4) although social interventions seem more promising than suppression approaches, criminal justice responses are much more prevalent. Klein [1995] has also argued that many interventions may have a "boomerang effect" by inadvertently increasing gang cohesiveness and activity. In the light of these conclusions, some researchers have proposed the abandonment of programs that directly focus on the gang or that bring together members from either the same or

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different gangs. Many researchers also agree that part of the failure of past interventions is linked to the challenges derived from the fact that gang-involved youth are often disadvantaged in multiple developmental domains [Thornberry et al., 2003].

Not all gang researchers share the pessimism about gang interventions, however. Howell [2007] has recently argued that the "nothing works" assessment is a myth and that reviews like Klein and Maxson [2006] are both incomplete and unfair. He argues that there are some instances of recent success and makes particular reference to comprehensive interventions.

Indeed, some "recent" efforts have aimed at incorporating prevention, reform, and suppression into comprehensive interventions. The idea of comprehensive interventions is often referred to as the Spergel model, after criminologist Irvin Spergel, the key proponent and developer of the model. The Spergel model aims to provide individual young people in gangs or at heightened risk of gang involvement a package of tailored measures that incorporate both service provision and service suppression. Basic to this model is the provision of services through interagency cooperation and with the support of community organizations working under the supervision of a steering committee [Spergel, Ming Wa, and Villarreal Sosa, 2006].

The program was first introduced and tested by Spergel and his colleagues in the Little Village area of Chicago. The promising results of this initiative led to Office of Juvenile Justice and Prevention funding of its replication in five different sites, including Bloomington-Normal (Illinois), Mesa (Arizona), Riverside (California), San Antonio (Texas), and Tucson (Arizona). The evaluation of this model in these five sites reveals how difficult it is in practice to deliver a comprehensive model aiming to change individuals, their families, organizations, and communities, particularly when this needs to be done through the collaborative work of agencies with different values, agendas, and often competing interests or visions of the problem. Rarely was the program implemented as it was designed to be, despite the financial and technical support it received. In the two sites at which the implemented program closely resembled the Spergel ideal (Mesa and Riverside), program youth, regardless of whether they were gang involved or not, presented better outcomes than the youth in the comparison group. In the other three sites (Bloomington-Normal, Tucson, and San Antonio), there was little evidence of success, something Spergel and his team blamed on the poor implementation of the program.

The Safe Future Program, another initiative based on similar ideas, offers similar, if not bleaker, results. A total of six different sites received funding and, again, considerable technical assistance for the implementation of the program. However, only one site, St. Louis, managed to produce a final report to date. The evaluation reported serious implementation problems because of different goals across agencies, their reluctance to share information,

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antipathy between different agencies, serious "program drift," limited implementation fidelity in terms of the services delivered, and lack of adequate data gathering for monitoring and evaluation. This report thus suggests that at this site the program was never properly implemented and, in fact, found better outcomes for the youth in the control group than for the youth who receive the intervention [Decker et al., 2002]. The evaluators concluded that "it may be easier to change the behaviour of juveniles than the system of caregivers who provide services to those juveniles" and that "resolving turf issues may be more difficult for rational organizations than it is for loosely structured gangs" [ibid.:3, 82].

Finally, another example of comprehensive coordinated integrated intervention is the OJJDP Gang Reduction Program [Cahill et al., 2008]. This program was to be tested in a specific community to be selected within each of the four different cities (Los Angeles, California; Milwaukee, Wisconsin; North Miami Beach, Florida; and Richmond, Virginia). The idea was to develop collaborative programs cutting across agency boundaries, providing responses in a variety of risk factor domains (peers, schools, individuals, families, and communities), and incorporating prevention (primary, secondary, and tertiary) and suppression, as well as prisoner reentry support. All this was to be achieved through the leadership of local steering groups receiving considerable technical and financial assistance from federal agencies [ibid.].

The interim report, with the very preliminary findings, by the national evaluation of the Gang Reduction Program finds results that are consistent with those of previous evaluations of comprehensive interventions. The implementation of these complex strategies raises very significant challenges in practice, often taking longer to implement than anticipated. The report, however, also highlights the achievement of significant implementation benchmarks in all the sites, suggesting that with time and appropriate support, some of the practical implementation difficulties may be ironed out. In terms of outcomes, the results were mixed. The Los Angeles site seemed to be achieving positive results, the Milwaukee and North Miami Beach not finding significant impact, and the Richmond site reporting what on the surface might be negative results [Cahill et al., 2008].

Regardless of how one reads the existing evidence, one thing most American gang researchers seem to agree on is that their government is unwilling to take the sort of steps required to deal with the root causes of gang formation and gang offending [Klein and Maxson, 2006:262; Hagedorn, 2008:132–35]. However, they seem to disagree on what the responsible alternatives are. Some argue that the government should spend "a great deal of money" on creating "social efficacy, or community empowerment, or social organisation" in communities that are experiencing gang problems [Klein and Maxson, 2006:263]. Others believe that the only hope lies in transforming gangs into social movements—rather than supporting more criminal

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justice interventions or uplifting social programs—and in transforming gang researchers into social activists [Hagedorn, 2008].

Non-Americans may wonder what positive lesson can be learned from a country that claims to have more gangs—and gang violence—than any other country, a gang problem with a history going back a hundred years, and as long a history in failures to deal adequately with the matter. With a history of cross-Atlantic policy transfer that has often involved copying punitive and repressive fads from the United States [Jones and Newburn, 2007], many researchers worry that even recognizing that there are such things as European gangs may act as a Trojan horse for more of these cross-Atlantic punitive policy transfers.

In fact, one could argue that given that historical records show an equally long history of gangs in some European countries [Gooderson, 1997; Davies, 1998] and a considerably lower problem with gang presence and gang violence in others, perhaps the lesson learning and the policy transfer should be going from Europe to the United States. If gangs are associated with ecological patterns of social exclusion, it seems clear that so far European countries have managed to create less extreme conditions than has the United States. As Wacquant [2008] has argued, there are important differences between the American *hyperghetto* and socially excluded areas in Europe. As Carlsson and Decker [2005] have also highlighted, whereas Americans have had to rely on special programs and interventions to deal with gang-related issues and cover holes in the welfare safety net, many of the problems these interventions aim to tackle are covered under the more comprehensive European welfare regimes. The state has traditionally been expected to provide a basic level of coverage in relation to health, employment, and social services that has made the development of special programs to cover holes in the safety net unnecessary. Moreover, if gang violence is associated with firearm availability, it is also clear that Europe has been more successful than the United States in managing this problem. Some researchers go as far as suggesting that Europeans' reluctance (ill informed or not) to talk about gangs may have contributed to reducing support for the sort of "boomerang effect" policies and interventions that may have contributed to institutionalizing this problem in some American cities [Hallsworth, 2004].

There are certainly things that can be learned from the American experience; failure is indeed a powerful tool for understanding. As Klein [1995:137] concluded, "We have learned much about what not to do, though even this messages has not been well communicated, but we have learned little about what we should be doing." In Europe demographic, economic, and political changes are creating fissures in both the traditional welfare approach and the urban landscape. Increasingly, social science practitioners and community members recognize that the myriad of problems presented by gang-involved youth raise significant challenges for general-provision programs

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[Aldridge and Medina, 2007]. Parallel to this we have witnessed how gangs have penetrated the discourse of the media, of politicians, and of young people. All these factors have contributed to the development of new programs and interventions. In the United Kingdom, a Tackling Gangs Action program was created in 2007, and as a result, a set of guidelines and recommendations for practitioners was published. More generally, to date European attempts to tackle gangs have been of the following main types:

- *Suppression and law enforcement developments.* These can be seen in special police gang units, police powers, or police operations (e.g., Frankfurt, Stockholm, Oslo, Copenhagen, Manchester); the development of police data sets with information about gang members or troublesome youth groups (e.g., The Hague, London, Manchester, Amsterdam); and the use of gang membership as an aggravating circumstance in sentencing decisions (e.g., Spain, preliminary discussions in the United Kingdom).
- *Community-based social initiatives.* These are shaped by community groups or church-based organizations and aim to provide support, often voluntary and with insufficient funding, to victims of gangs violence or to reach out to socially excluded children and to young people at risk of joining gangs or already associated with them. Among such initiative are Gangway (Berlin); Mothers Against Violence, Carisma (Manchester); Mothers and Fathers Against Gangs (Stockholm); Street Pastors (United Kingdom); X-it (London).
- *Government-sponsored comprehensive social interventions.* An example of this approach is Manchester Multi-Agency Gang Strategy in Manchester, England. This multiagency group aims to provide support to gang members and young people identified as being at risk of gang involvement.
- *Mediation programs.* These programs try to mediate the conflicts that arise between members of youth gangs; they aim to avoid escalation into violence (e.g., West Midlands Mediation and Transformation Services in the United Kingdom).
- *Efforts at transforming gangs into legitimate youth organizations.* With strong support from the local government [Feixa, 2006], such efforts have been attempted in Barcelona with immigrant street youth organizations, but not specifically with gangs.

None of the programs in the preceding list has produced evaluations of success. Moreover, our knowledge about the range of current interventions across Europe is patchy, not based on systematic assessments of studies trying to identify current practice. There is indeed a danger that as in the United States, suppression of interventions may come to the fore, making it critical

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to learn from what that led to in the United States. Indeed, in such other contexts as Central America, official policies have also tended to emphasize suppression techniques, with the consequence of stronger gangs both in and outside prisons [Medina and Mateu, 2007].

20.6 Cross-National Comparisons

Most gang research has been carried out in the United States. But it is also the case that historical as well as contemporary studies about the group context of youth crime also exist in many other countries, even if publication in languages other than English, as well as other factors, has made the dissemination of this material more difficult. More recently, such enterprises as Eurogang have contributed to the development of scholarship about gangs in Europe [Klein et al., 2001; Decker and Weerman, 2005]. We have also witnessed the development of networking initiatives by other gang researchers to develop a more global understanding of the phenomenon [Dowdney, 2005; Hagedorn, 2007, 2008].

Furthermore, there is a growing body of literature in the fields of development studies and the sociology of Africa, South America, and Asia focusing on gang-related issues. In particular, Central America, Brazil, and South Africa are areas that have received a considerable degree of attention [Rodgers 2006; Clarke, 2006; Ward, 2007; Hume, 2007; ERIC et al., 2001; Medina y Mateu, 2007]. It appears that in some of these regions, there is evidence of the emergence of the type of institutionalized gangs that American criminologists have come to associate with Chicago and Los Angeles.

Hagedorn [2006, 2007, 2008] has been one of the most outspoken authors about the global reach of gangs, arguing that a number of factors are contributing to the global spread of gang identities, in particular:

- Unpredecented worldwide urbanization and the globalization of dual city-geographic structures, contributing to the growth of a population marginalized in these urban contexts
- State abandonment linked to neoliberal and punitive policies toward socially excluded populations, contributing to the pauperization and/or increasing sense of nihilism of the socially excluded
- The spread of "gang culture" as an appealing "resistance identity" that young people across the globe find useful to give meaning to their experiences

According to Hagedorn [2008:131], today "gangs, whether we like it or not, are a 'normal' feature of cities worldwide." How globalization is affecting gang formation, however, remains for the most part an empirical question requiring further research [Short, 2007]. In fact, exactly what this means is

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not clear. Something that both gang researchers and those critical of gang studies agree is that local variation is critical to understand gangs. There is so much variation, some say, that we should not assume some universal essence to gangs [Sullivan, 2006]. A corollary is that communities should "not attempt to treat all gangs equally based on untested assumptions" [Wyrick and Howell, 2004:21].

An important development, then, in the study of gangs has been the emergence of cross-national studies that attempt to shed light on developments in different local contexts. This is the only way in which we can avoid "imposing an archetypal narrative on a wide variety of experiences embedded in very different local ecological contexts" [cf. Sullivan, 2006:16]. Klein [2006] has insisted on the need to develop comparative research as the only fruitful way to advance our theoretical understanding of gangs. Only by systematically studying variation in context can gangs be understood, and this would include studying gangs across different nations.

To date, however, most studies attempting to establish cross-national comparisons have either not being systematic enough (e.g., do not stick to the same definitions, methods, and measures in the different countries analyzed), have neglected to assess variation on context, or have only been retrospective, that is, have taken advantaged of existing data collected separately, performing comparisons a posteriori (e.g., limiting the possibility of common definitions, methods, and measures). Typically, researchers from different countries have come together to combine data collected using different methodologies and have tried to use this comparative approach of limited validity to start developing hypotheses. Examples of this approach include Huizinga and Schumann's comparison of Bremen (Germany) and Denver (United States) gang members [2001], Weerman and Esbensen's comparison of Dutch and American youth [2005], and Winfree and colleagues' comparison of American, Bosnian, German, Dutch, and British young people [2007]. These comparisons have all been based on comparing self-report surveys, have typically contrasted levels of gang membership, demographic and risk factor profiles, and the relationship between gang membership and offending. Other studies, for example, in Central America, have provided regional accounts of the problem but have not really succeeded in producing truly comparative accounts [cf. ERIC et al., 2001].

More recently a new set of research collaborations is in the process of producing more comparable data and findings by using common research protocols. The new wave of the International Self-Report Delinquency Study, for example, adopted the key operational criteria used by Eurogang and soon will be able to produce cross-national analysis about the prevalence of gangs in a large sample of countries.

What are we learning from these cross-national studies? Given the methodological limitations discussed, it is very early to produce definitive

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conclusions. The data we have from these comparisons seem to suggest a number of key points:

1. There are similar levels of adolescents and young adults that self-report surveys classify as members of gangs in Europe and in the United States.
2. The comparisons based on self-report surveys seem to suggest, however, that there are important differences between groups in Europe and those in America. In particular, European gangs seem to present a lower prevalence of the sort of cultural identifiers (e.g., rules of conduct, established leaders, colors, initiation rites) that are common in American gangs [Weerman and Esbensen, 2005; Winfree et al., 2007]. Some ethnographic studies also suggest this to be the case [Aldridge and Medina, 2007]. It is difficult to reach firm conclusions about the meaning of these differences. Some researchers may argue that it is simply a consequence of the more emergent nature of the problem in Europe; others, that it may be a symptom and consequence of a weaker group identity among gangs in Europe that could perhaps be explained by different levels of inequality and ecological social exclusion [see Wacquant, 2008]. Notwithstanding the differences, there is also ethnographic evidence suggesting that exposure to these cultural signifiers through the Internet, music, computer games, and television is spreading elements of American gang culture among European delinquent and nondelinquent youth [Van Gemert, 2001; Feixa, 2006; Aldridge and Medina, 2007].
3. The "level, severity and lethality of youth violence" are lower in Europe, and this also applies to European gang members [Klein, Weerman, and Thornerry, 2006:433]. Although they are more violent than youth who do not belong to gangs, their level of violence is not as high as in the United States. Moreover, some studies seem to suggest that European gang-involved youth, although more prone to crime than their peers, are not as criminally oriented as American gang-involved youth [Huizinga and Schumann, 2001]; other researchers, though, find more similarities than differences [Weerman and Esbensen, 2005].
4. Social exclusion, marginality, and discrimination seem to be common factors in the communities where gangs tend to form.
5. Institutionalized gangs seem to be the exception in Europe, as they are in the United States. In a number of countries in other regions (e.g., El Salvador, Jamaica, and Brazil) there is evidence of institutionalized gangs, as well as of complex interactions between such gangs, community actors, and state officials, and there are very high levels of gang violence.

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6. Although there are ethnographic reports highlighting how discrimination and social exclusion contribute to the formation of gangs among ethnic minority youth outside the United States, including Europe, self-report surveys from Europe find that most youth gangs are white. Moreover, the European surveys fail to find the same levels of gang members among ethnic minorities as reported in U.S. surveys [Sharp et al., 2005; Weerman and Esbensen, 2005].

The evidence and arguments presented in this chapter highlight how challenging, yet also relevant, the study of gangs is in the international context. The development of comparative methodologies and the participation of cross-national networks of researchers aiming to develop an understanding of gangs in their respective countries offer new opportunities to resolve some of the difficult questions that plague the study of gangs.

20.7 Further Reading

This chapter aims only to provide a general introduction to some of the topics associated with the study of gangs. For a more in-depth analysis of these topics, there is an abundance of sources the interested reader may explore. Klein and Maxson [2006] provide a very up-to-date review of American research on the topic, whereas the volume edited by Hughes and Short [2006] offers a good selection of chapters with insightful observations about the future of gang research. As a reader of this *International Handbook*, you may be interested in more than American research. Hagedorn edited [2007] and authored [2008] books on gangs in the context of globalization of interest to the contemporary researcher, whereas Klein and others [2001], Decker and Weerman [2005], and Van Gemert, Peterson, and Lien [2008] provide a good introduction to the status of gang research in Europe. For those who read only English, Jones and Rodgers [2009] edited an overview of work on gangs in Latin America, providing an excellent selection of chapters on the topic. A topic not covered here for reasons of space, though of critical interest to gang researchers, is the issue of gender and gangs. Jody Miller's *One of the Guys* [2001] is possibly the best recent study on female gangs and could be complemented with Chesney-Lind and Hagedorn's edited volume [1999] and Fleisher's *Dead End Kids* [1998].

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Victim Participation in the Criminal Justice Process

21

Normative Dilemmas and Practical Responses

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21.1 Introduction

The role of the victim in the criminal proceedings of common law jurisdictions has come almost full circle, from victims having the burden of pursuing justice on their own, to victims being totally excluded from proceedings, and back to

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allowing them some degree of participation at almost all stages of criminal justice. Victims have traditionally been unable to participate in criminal justice proceedings for various structural and normative reasons. Being considered a "private" party, they have been excluded from the public realm in which most criminal justice proceedings are conducted. In recent years, however, there has been a major shift in attitude toward victims in the criminal justice system, and a concomitant change has taken place in the public-private divide in criminal justice discourse [Doak, 2005]. This transformation has highlighted some normative dilemmas and revealed tensions in attempts to address them through reforms in the victim's role in proceedings.

This chapter reviews the historical development of crime victims' role in adversarial legal systems and evaluates the impact of reforms regarding victims and the criminal justice system. We begin at a general level, describing legislation that recognizes the rights of the victim throughout the system, and proceed to describe victim engagement at specific points of the criminal process. We pay particular attention to the stage of sentencing. In many respects sentencing represents the apex of the justice system, and it is here that victims' interest in participation is keenest. In addition, more victim-focused research has been conducted on sentencing than policing, court processes, or corrections. A single chapter cannot summarize all the reforms around the world; rather, we highlight the most important developments with relevance for many jurisdictions, providing illustrations from specific countries along the way. We summarize findings from studies that have explored the evolving role of the victim and the impact of victim-related initiatives on the criminal justice system. The chapter concludes by discussing some policy implications of the reforms that have transformed the role of crime victims in the criminal justice process.

21.2 Adversarial Legal Systems and Their Discontents for Victims

In earlier centuries, crime victims had to assume the responsibility of pursuing the offender and bringing him or her to justice. With the centralization of power and creation of the concept of the King's peace, victims lost their active role in justice [Schafer, 1968]. As the state began to consider the case as a public affair rather than merely a private conflict between individuals, there was a movement toward excluding the victim and prosecuting a defendant on behalf of the community. As a consequence, the crime victim was relegated to a secondary role—that of a witness for the prosecution [Zeigenhagen, 1977].

The conception of a criminal trial that underlies contemporary adversarial justice systems is that it entails a conflict between two adversaries—the state and the defendant—and that the search for the "truth" (the criminal

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trial) is conducted before an impartial adjudicator, the judge, who ensures procedural fairness for both sides. Adversarial legal systems thus comprise, by their nature, an "exclusionary criminal justice system" that is restricted to two parties [Sanders, 2002]. The justifications advanced for excluding the victim from adversarial legal proceedings have ranged from its being merely a "historical misunderstanding" [Goldstein, 1982], through cultural and institutional dynamics that function to ignore victims [Elias, 1990], to practical concerns about implementing victims' rights [Heriot, 1996], to a concern over a possible threat to defendants' rights [e.g., Schulhofer, 1995].

The challenge to legislators in common law countries has been to find a way of accommodating victims to a greater extent than before, but without undermining the fundamental principles of an adversarial criminal justice system [e.g., Henderson, 1985; Hall, 1990]. More recently, two new models of justice (restorative justice and therapeutic justice) have called into question the essential logic of the two-party adversarial model and have offered an alternative in which victims can play a more central role. We return to these alternative conceptualizations of justice at the end of the chapter.

For most victims, even their role as witness never materializes. As a result of "case attrition" that characterizes the criminal justice process, most criminal incidents do not end in the imposition of a sentence or even a trial. Research in England and Wales, Canada, and elsewhere has demonstrated that a sentence is imposed in only approximately 2–3% of all crimes [e.g., Ashworth, 2005]. The police may be unsuccessful in making an arrest, or the prosecutor may decide that it is not in the public interest to lay a criminal charge. If a charge is laid, it may ultimately be stayed or withdrawn. With respect to the prosecution of the case against a suspect or accused, such considerations as "the public interest" may override victim interests in law enforcement. This may create conflict with the victim: in many cases the crime victim may not share the view of the prosecutor. Moreover, in the vast majority of cases in common law jurisdictions—as high as 90%, according to some estimates—the accused ultimately pleads guilty and the case proceeds to sentencing without a criminal trial being held. Therefore, unlike continental or civil law legal systems, which provide victims with a formal role in criminal proceedings [e.g., Erez and Bienkowska, 1993; Joutsen, 1994], adversarial legal systems do not accord victims any standing in the prosecution of "their" offenders. Victims have little influence over whether or how the state chooses to proceed against the alleged perpetrator. Thus, until fairly recently, crime victims were denied any role in or input into the prosecution of the case against the accused in their case. Yet the state is highly dependent on victim cooperation, without which a criminal prosecution is unlikely to succeed.

The lack of victim standing in criminal proceedings and the consequent insensitivity to the needs of crime victims led to considerable victim

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dissatisfaction and alienation from the criminal justice system. Victim discontent, documented in surveys of crime victims in various countries, was related to various hardships that victims had to endure following their victimization. However, the most important cause of dissatisfaction concerned their exclusion from proceedings, or lack of input into decision making. These findings led to campaigns by victims' rights groups to bring about fundamental changes in the criminal justice system.

21.3 The Emergence and Scope of Victim Participatory Rights

Research has revealed that while some victims prefer to stay out of the criminal justice system, many others wish to have some level of participation at various stages [Roberts and Erez, 2004]. The need to provide victims with participatory rights has been recognized by many national committees established to study victims in the criminal justice process—for example, the President's Task Force on Victims of Crime [1982] in the U.S. and the report of the Standing Committee on Justice and Human Rights in Canada. Similar reports have been published in other jurisdictions.

The international community has also recognized the need to integrate victims into the criminal justice process. In 1985 the United Nations Seventh Congress on the Prevention of Crime and Treatment of the Offender adopted a declaration that required that victims be allowed to present their views and express their concerns at various stages of the criminal justice process. Victims also enjoy significant rights in proceedings before the International Criminal Court (ICC) in the Hague. The ICC hears cases involving crimes of genocide and crime against humanity—the most serious crimes committed against people, often involving many hundreds of crime victims. The importance of victim participatory rights at this level is apparent from Article 68 of the Rome Statute of the International Criminal Court. This provision recognizes the security interests and participatory rights of victims and witnesses.

Generally, debates and subsequent reforms designed to address the problems have revolved around three themes: victim coping needs, perceived justice needs, and fundamental justice concerns [Sebba, 1996]. In response to demands by the victims' rights movement, all Western countries have passed legislation creating various victim rights and have established a wide range of services for victims of crime. Thus, victims now have the right to receive information about the status of the case in which they are involved—for example, by being told about court appearances, any change in the accused's plea, and other information related to the prosecution of the case. Victims also have the right to apply for financial compensation, as well as psychological assistance to help them cope with the consequences of criminal victimization. More

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recently, many jurisdictions have provided victims with participatory rights throughout the criminal process, beginning with the arrest of a suspect and ending with the prisoner's conditional release from prison (on parole).

Across the United States, many states have enacted victims' bills of rights that provide victims with various rights and privileges in the context of bringing their offender to justice. These bills vary in scope, from mandating that criminal justice officials simply treat the crime victim with respect, to establishing a victim's right to be present and heard, to allowing victims to sit at the prosecutor's table during trial. In several states, victims' rights are achieved by specific statute, but a number of states have adopted constitutional amendments to give victims' rights greater permanence and visibility. A victims' rights amendment to the U.S. Constitution has been accepted by many states, although to date it has not achieved the necessary level of support to be adopted. States also provide for victim participation in plea bargaining, although the extent to which victims are allowed to participate in plea discussions varies widely, with no state providing victims with a veto over plea agreements. The vast majority of the states also allow for victim participation in sentencing and parole hearings.

21.3.1 Categories and Special Circumstances of Victim Participation

Responses for calls to integrate victims in proceedings can be divided into two kinds: active victim participation, where victims have decision-making power; and passive involvement, where victims have no power over decisions but are consulted and informed of developments in their case [Wemmers and Cyr, 2004, 2005]. Some scholars [Edwards, 2004] have further divided forms of victim participation according to how the justice system is expected to respond: (1) control, where criminal justice authorities are obliged to seek and apply the victim's preference, thus making the victim a decisionmaker in the case; (2) consultation, where criminal justice authorities are required to seek and consider victims' preferences regarding critical decisions taken; (3) information provision, where authorities are obliged to solicit information and then consider information from the victim (the role of the victim as witness); and (4) expression, where victims have the option of expressing opinions to authorities, who are required to allow victim expression but are not obliged to consider these views (i.e., they are not compelled to follow them).

Reforms addressing special types or circumstances of victims have also emerged. For instance, the terrorist attacks that occurred in the United States (Oklahoma in 1995; the attacks on the U.S. government or military targets in the Middle East and Africa; and the September 11, 2001, events) have led to programs that address mass victimization in the United States and overseas, including long-term provision of services to U.S. nationals victimized

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by terrorism anywhere in the world, as well as help for their relatives. When victims are afraid or reluctant to provide testimony or input into proceedings (e.g., domestic violence cases), solutions have also been devised. These laws or statutory amendments require, for instance, police to make arrests regardless of whether the victim signs the complaint. Similarly, prosecutors are allowed to proceed with the prosecution of a case even if the victim refuses to cooperate (the so called no-drop policy). Mandatory arrest laws and no-drop prosecutorial policies recognize that victims who press charges in cases of domestic violence may be especially vulnerable to retaliation from the perpetrator. Such laws remove from victims the decision as to whether to press charges, allowing prosecution of the accused to proceed without the involvement of the victim.

Mandatory charging and prosecuting policies, however, create a dilemma for victims of domestic violence who may want to use the criminal justice system as an ally to empower them in dealings with their abuser (e.g., to negotiate in their family situation), but who do not want to have the offender arrested and convicted [Ford, 1991]. These reforms also create a potential conflict with the principal goal of victims' advocates: to give victims a say in important criminal justice decisions that affect their lives. Accordingly, some researchers, abused women's advocates, and feminist scholars have criticized the mandatory element of these policies on the grounds that they actually further disempower the crime victim [e.g., Ford, 2003].

21.3.2 Responses in Other Countries

Victims' rights legislation of various kinds has been adopted by other countries as well, although not to the degree found in the United States. For example, the criminal justice system in Canada now permits victims to participate at various stages of the criminal process, from bail to parole. Since 1998 victims have enjoyed a statutory right to submit a victim impact statement at sentencing and, more recently, to deliver the statement orally at sentencing if they so desire [see later and Roberts, 2003]. In one Canadian province (Manitoba), according to the Victims' Rights Act, crime victims have the right to be consulted with respect to decisions taken at all stages of the criminal process, including whether the state appeals a conviction or a sentence. In addition, there is a national ombudsperson for crime victims—a reform also found elsewhere.

Some jurisdictions have adopted "victims' charters," which can be largely aspirational in nature, creating expectations that the system will conform to certain standards without actually conferring legal rights upon crime victims. In England and Wales, a relatively recent statute (the Domestic Violence, Crime and Victims Act, 2004) has created a Code of Practice for Victims of Crime. This code creates not actual rights—which could be enforced in a

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court—but, rather, an expectation that victim service providers will provide the kinds of information to which victims are entitled. In the event that the code is breached, the matter is "referred initially to the service provider(s) concerned [to resolve]" [Home Office, 2005:1; see Hoyle and Zedner, 2007].

21.4 Victim Participation and the Criminal Justice Process

21.4.1 Courts

Some victims of serious personal injury offenses have a keen interest in all proceedings against the alleged perpetrator, from the first important decision, namely, whether to deny or grant bail. Victims in a number of jurisdictions are allowed to provide input at the stage of bail, when a suspect or accused is asking for release into the community to await trial. This input may take the form of asking that certain conditions be imposed on the accused in the event that he is granted bail. For example, the accused may be required to stay away from the victim's neighborhood or workplace. These reforms represent an increase in sensitivity to the victim's safety concerns; but as with many other forms of victim input within the adversarial model, they are placed before the court through, and only with the support of, the prosecutor. In other models of justice, such as the *partie civile* system in continental Europe, the victim would have the ability to make these representations directly to the court.

As noted, up to the conclusion of the trial, the role of victims in the court is limited to that of being a witness for the prosecution. As such, victims, like other witnesses, are restricted to responding to questions posed by the prosecutor (direct) or the defense attorney (in cross-examination). The sentencing stage, which determines the penalty to be imposed on the offender, is the first opportunity for victims to express in a public forum how the crime has affected their lives (and the lives of their families). Sentencing, therefore, is the most critical point for victims, and many are interested in providing input at this stage, particularly victims of the more serious crimes of violence. Many victims look toward a sentencing court to acknowledge their suffering and to mark the seriousness of the crime by imposing an appropriate penalty on the convicted offender. Yet of all the participatory reforms, victim input into sentencing decisions, or victims' right to submit a victim impact statements (VIS), have attracted the most opposition.

21.4.1.1 Victim Impact Statements at Sentencing

The victim impact statement (or VIS, as it is usually known) is the primary vehicle designed to provide victim input into sentencing. The VIS is a statement in which the victim describes the impact of the crime on his or her life, including physical, social, psychological, and financial harms. The statement

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is usually submitted by means of a victim input form. The VIS may be delivered at the sentencing hearing in writing, orally, or visually (in countries or jurisdictions that allow victim allocution or presentations through a video). Judges are encouraged, or in most jurisdictions required, to take the victim impact statement into account when determining sentence. In addition, in some jurisdictions (including Canada), prior to sentencing, courts are required to inquire of the prosecution whether the victim has been apprised of her right to submit an impact statement.

In some U.S. jurisdictions VIS forms allow victims to make a sentencing recommendation to the court. Since victims are members of the public, they are unlikely to have an accurate idea of sentencing practices in their state, the nature of sentencing guidelines, or the factors that courts take into account at sentencing. The consequence is that most victims will have unrealistic expectations about the sentencing powers of the court or the sentence usually imposed for any given offense. There is a clear danger that sentencing recommendations from the victim will be at odds with the tariff or usual sentence imposed. However, if the court follows the victim's recommendation, the consequence will be a loss of fairness—offenders will receive a sentence consistent with a victim's wishes rather than sound sentencing principles. On the other hand, if a court ignores the victim's sentencing proposal and imposes some other penalty, the victim may well be disappointed and wonder why he or she submitted the statement in the first place. Unless the circumstances are exceptional, encouraging or allowing victim sentence recommendations is therefore likely to make matters worse for the crime victim, not better. For this reason, in almost all other jurisdictions victims are allowed to describe the impact of the offense upon their lives but are prevented from giving their views about the sentence that should be imposed.

Some critics of VIS make the assumption that a victim's input into sentencing is irrelevant to any legitimate sentencing considerations and is likely to be prejudicial to the interests of the defendant. Permission to deliver a VIS in person—exercising the right of victim allocution—has been regarded as particularly objectionable, as an oral version in a very serious crime may be very moving for the judge, and this may increase sentence severity or promote sentencing disparity. Some have noted that for legal or tactical considerations, victims are not cross-examined on their input, making the practice unfair to defendants. Recent critiques have also argued that allowing victims to provide input at sentencing does not necessarily provide victims with the expected "closure"; and, in any case, the concept of closure in the context of victim participation is too ambiguous to justify emotional input in sentencing [Bandes, forthcoming].

For the foregoing and other practical reasons, critics of victim impact statements have claimed that "VIS don't work and can't work" [Sanders et al., 2001]. However, the empirical research upon victim input schemes fails to

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support many of the criticisms raised [for a review, see Leverick, Chalmers, and Duff, 2007; Roberts, 2009]. For example, judges are experienced in approaching input in an "objective" manner and not being unduly swayed by emotional victim input [e.g., Erez, 2000, 2004; Erez and Rogers, 1999]. In addition, victims are not always punitive or motivated by vengeance [e.g., Herman, 2003; Booth and Carrington, 2007:383]. Moreover, if victim input is part of a well-administered scheme, in which victims are given clear directions about the nature of the program, benefits may ensue. Allowing victims some input—but not a veto over the sentence imposed—can be of benefit to the sentencing process. Providing an impact statement may help victims and also carry benefits for the various audiences they address, such as the defendant, the community, or the media [Szmania and Gracyalny, 2006].

Advocates of victims' input into sentencing have argued that the VIS reflects victims' wishes to be treated as a party to the proceeding and reminds judges, juries, and prosecutors that behind the "state" there is an individual victim with an interest in how the case is ultimately resolved. The victim is not simply another member of the public gallery. Research has confirmed that victims have expressed satisfaction with cases in which judges quoted their input in sentencing remarks, thereby validating victim harm [Erez, Roeger, and Morgan, 1994; Roberts and Edgar, 2005]. Victim input may well help promote proportionality in sentencing because victims can provide accurate information about the seriousness of the crime or the harm they sustained [Erez and Rogers, 1999]. Victim input schemes, *when properly administered*, may likewise lead to increased victim satisfaction with the judicial process and cooperation with the criminal justice system [Erez, Roeger, and Morgan, 1994]. The use of VIS can also promote psychological healing by helping victims to recover from the emotional trauma associated with their victimization. It may also alleviate some of the feelings of helplessness that can arise as a result of the crime and the inability on the part of victims to express themselves to judicial authorities.

Gloomy predictions that the court system will grind to a halt as result of including victim input have not materialized. Research on the impact of VIS reforms suggests that victim participation does not result in undue delays or clog the criminal justice system by protracting the time taken to arrive at an adjudication [Roberts and Edgar, 2005]. Studies have also demonstrated that victim participation does not necessarily result in harsher punishment of offenders, that the VIS contributes to proportionality in sentencing, and that victim participation has the potential to increase victim satisfaction with the judicial system. In addition, while there may have been initial resistance on the part of the judiciary to the use of impact statements at sentencing, recent research has demonstrated that judges report finding legally relevant information in VIS [ibid.]. At the same time, judges appear confident that they can ignore any irrelevant or prejudicial material that impact statements

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sometimes contain. (See Roberts [2009] for a review of research on victim impact statements at sentencing and parole.)

21.4.1.2 VIS and Victims' Welfare and Satisfaction with Justice

Victim rights legislation has been supported by social science research and mental health expertise that has documented the benefits of integrating victims in proceedings and the disadvantages resulting from their exclusion. For instance, researchers have demonstrated that "procedural justice"—litigants having the opportunity to present their case to decision makers—can positively affect victims' perceptions of and experiences with criminal justice proceedings. At the same time, research and practice [e.g., Herman, 2003] have highlighted why and how legal interventions that allow meaningful participation by victims may affect the well-being of victims.

In general, research identified three major factors that increase victims' overall satisfaction with the justice system and reduce their trauma. They include procedural justice concerns (e.g., having the opportunity to be heard, being treated with respect, being informed and involved in key justice proceedings related to their cases, being taken seriously, and being believed), the overall decision of the court (e.g., whether the victims received financial compensation, and information on the offender's intent), and an admission of guilt or request for forgiveness from the perpetrator [Orth, 2002]. These factors were found to have more explanatory power than the severity of punishment, suggesting that victims' interests relative to proceedings are not tantamount to imposing a severe sentence. Victims' concerns in proceedings, the research shows [e.g., ibid.; Herman, 2003], pertain to the court addressing a broad range of issues that are within its purview, issues that a well-implemented VIS program can facilitate.

The relatively recent shift in approach to the VIS purpose, from an instrumental perspective that emphasizes benefits for the system in terms of sentence accuracy, to its expressive or communicative purpose—which highlights the importance of victim expression for its own sake, has helped in placing victim well-being back in the center of the debate [Erez, 2004; Roberts and Erez, 2004].

In general, rights and benefits that address victim coping needs and those that facilitate victim participation in most stages of the justice process have been accepted and widely implemented. Issues revolving around victim-perceived justice needs, particularly those that provide victims some control over court proceedings, have been a source of contention; some have opposed even victim expression, for instance in capital cases [Bandes, 2008]. Legal scholars subscribing to the tenets of therapeutic jurisprudence also argued for victim input or participation as a procedural reform that may have positive therapeutic effects on justice participants [e.g., Wexler and Winick, 1996; Wemmers, 2008]. We return to this issue later in the chapter.

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21.4.1.3 Barriers to the Implementation of Victims' Rights

Research has demonstrated that in practice many victim-related reforms never reach or benefit crime victims. Victims either are unaware of their rights to participate or elect not to exercise them. This is certainly true in the area of victim input into sentencing. Studies also reveal considerable confusion about the nature and purpose of VIS among victims, who at times do not understand the VIS purpose or claim that they did not fill out such statements when, in fact, they had done so. This may be because victims are questioned by an array of people and may become confused about the purpose of particular interviews. Some jurisdictions have overcome this problem by having victims prepare their own victim impact statement rather than merely provide the information to the investigating officer (in some countries, probation or victim assistance staff). Research in a number of common law jurisdictions has demonstrated that only a small minority of all victims participate in sentencing by submitting a VIS. Analysis of court files and surveys of such criminal justice professionals as prosecutors and judges confirm that in most sentencing hearings, victims often do not exercise their allocution rights, although there is some evidence for a growing desire to do so. Whether any given victim submits an impact statement will depend upon on the nature and seriousness of the crime (e.g., victims of serious violent crimes are more likely to submit a VIS), as well as other factors related to the administration of impact schemes.

Evidence on the effect of providing input into sentencing on victims' welfare has been inconsistent; research shows, at best, modest effects. This relatively small impact reflects a problematic implementation of the law or, in some instances, the interaction of heightened victims' expectations resulting from submission of VIS and satisfaction with justice. For example, victims interviewed after the case has ended sometimes cannot remember whether they submitted a statement or not—which suggests that the VIS program did not engage their interest sufficiently. In contrast, research has shown that in the continental European criminal justice systems (which allow victims a party status and which provide them with significant input into the proceedings), victims who participated as subsidiary prosecutors or acted as private prosecutors were more satisfied than victims who did not participate. These differences suggest that in jurisdictions in which victims have more input into proceedings, levels of satisfaction with justice may well be higher.

21.4.2 Corrections and Parole

21.4.2.1 Victim Impact Panels

A variation on the idea of victim-offender communication can be found in the United States in the context of corrections, where victims and offenders participate in *victim impact panels*. These panels constitute something of a

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"sleeper" issue in the field of victim participation, perhaps because they lack the direct engagement of VIS, the proximate expression of an individual victim to an individual perpetrator. Victim impact panels have yet to be adopted in other jurisdictions, although this may well change in future years.

Impact panels represent an innovative means of achieving some of the objectives of victim participation at sentencing and provide additional information about the communicative nature of victim impact statements. The concept underlying these sessions is simple: panels composed of victims and offenders meet to exchange views and describe experiences. Unlike the encounter between these two parties that takes place in a sentencing court, no relationship exists between the participants. The individualized and instrumental elements of a VIS are absent, but participating crime victims still have the opportunity to express themselves. Since they are not participating in an adversarial proceeding involving their offender, there is a disinterested aspect to their participation in these panels.

Victim impact panel programs are most often created to respond to impaired driving offenses. Much of the evaluation research in the area focuses on the effect that participation has on subsequent recidivism rates of the offenders participating in the panels [e.g., Shinar and Compton, 1995]. Although some studies have found participation in victim impact panels to have no effect on recidivism, in general the results have been positive. The data relating to the reactions of the victims who participate in these panels are also interesting. Although only some studies have focused on the victim participants, the results have been generally positive. Thus Fulkerson [2001:364] found that 80% of participating victims responded positively to the impact panel session, and 85% of the victims stated that they would recommend the use of such panels in the criminal justice system. These findings further underscore the strong desire on the part of many victims to express a view and to communicate with offenders even in the clear absence of any likelihood of influencing the nature or level of legal punishment imposed.

21.4.2.2 Parole Hearings

For many victims, the imposition of sentence represents the end of their contact with the criminal justice system. However, in more serious cases, where the offender is sentenced to a significant period of custody, some victims express a desire to keep apprised of "their" offender's progress through the correctional system. This means being informed if the prisoner is granted a temporary absence pass from prison. Unsurprisingly, victims' interest often focuses upon the parole decision. Compared to sentencing hearings, victim participation at parole hearings is a relatively recent development (outside the United States, at least), and accordingly there is less research and commentary on which to draw. In addition, it is likely that victim participation in the parole system will always involve a smaller percentage of crime victims

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than the proportion submitting VIS at sentencing. One reason for the lower rate of victim participation at parole is that few victims will have information relevant to the criteria for release that are generally (a) whether the prisoner would represent a risk to community if released early from prison, and (b) whether the release of the prisoner on parole would promote his or her rehabilitation and reintegration.

Allowing victim input at parole hearings raises additional normative conflicts—in this case, between the rights of the prisoner and the interests of the crime victim. As with sentencing, if victims were allowed to exercise a veto over the release of a prisoner on parole, fairness would be lost. On the other hand, some victims–usually of the most serious crimes—wish to be informed of any developments in the progress of the offender in the correctional system, including whether the prisoner has been granted parole.

Critics of the involvement of victims at parole argue that the justification for allowing victim input is less convincing at this stage of the criminal process. On the other hand, release on parole is a privilege, not a right, and this reality leads some scholars to conclude that there is a stronger, not weaker, argument that victims should have input into this stage of the criminal justice system. Unlike the debate over victims and sentencing, the justifications for allowing crime victims to participate in parole hearings have yet to be fully explored (see Roberts [2009] for further discussion).

How have criminal justice systems responded to these conflicting demands? Correctional authorities in most Western nations now routinely provide information about parole decisions to crime victims, if these victims have registered as "official victims." In addition, victims are often allowed to submit an impact statement to a parole board contemplating the early release of a prisoner. As with impact statements at sentencing, the United States was the first jurisdiction to incorporate victim input into parole. Almost all states have now introduced laws that give crime victims the right to submit an impact statement at any parole hearing involving the offender in their case [see Bernat, Parsonage, and Helfgott, 1994; O'Hara, 2006].

For example, in Michigan, if victims so request, the Department of Corrections must notify them not less than 30 days prior to a parole review involving the offender in their case. The victim may then submit an impact statement and/ or be represented by counsel at the actual parole hearing. The parole board is then required to consider the victim's statement when deciding whether to release the prisoner on parole. If they have registered with the Correctional Service, crime victims in Canada are informed about parole decisions involving their offender and also have the right to submit impact statements in person or by way of audio- or videotape. Crime victims in England and Wales have the opportunity to represent their views to the Parole Board in cases when release or transfer to an open prison is contemplated for serious offenders, defined as those who have been sentenced to

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12 months or more in prison for a sexual or violent crime [National Offender Management Service, 2007].

Canada provides a useful illustration of the growing victim interest and participation in corrections. Statistics from the Correctional Service of Canada confirm a growing level of victim participation in recent years. The number of victims who registered rose fourfold during the period 1995–2008, from 1,200 to 5,182. In the fiscal year 2005–2006, approximately 5,000 victims registered to receive notification about the offender's progress through the correctional system. Brozowski [2007:7] notes that the National Parole Board reported a 500% increase in the number of contacts with victims over the period 1993–2006. The volume of contacts is likely to increase further within the next few years as victims become more aware of their rights in the correctional system. Similar trends are likely in other countries that have created victim notification and victim input programs at the level of corrections. These statistics reflect the keen interest that many victims have in the administration of a sentence of imprisonment.

21.5 New Paradigms to Integrate Victims in Proceedings

21.5.1 Restorative Justice

A major alternative to adversarial proceedings, which by their nature tend to exclude victims, is a model of justice that tends to promote the interests of the crime victim—namely, *restorative justice*. This relatively new model has recently emerged as an alternative paradigm to the traditional criminal justice paradigm [von Hirsch et al., 2003]; it is inspired by customary law practices in Australia and New Zealand and has grown out of voluntary offender-victim mediation programs practiced in the United Kingdom [Booth and Carrington, 2007]. As with the victims' rights movement, restorative justice has emerged as a worldwide phenomenon [see Braithwaite, 1999]; all jurisdictions have, to varying degrees, introduced policies and programs designed to promote the goals of restoring peace between the victim and the offender or the offender and the community [e.g., Sullivan and Tifft, 2008; Weitekamp and Kerner, 2003]. Attention to schemes that focus on restorative justice (as distinguished from punitive or retributive justice) has benefited victims who wish to be integrated into justice proceedings. Restorative justice programs exist at all stages of the criminal justice process and can be found in both developed and developing countries. Restorative justice programs share the goal of addressing the harm inflicted on the victim as a result of the violation rather than merely punishing the perpetrator for the crime. As such, they focus on the harm the victim has suffered as a result of the violation, and they seek the best ways to resolve the conflict between the perpetrator and his or

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her victim. They range from pretrial conferences involving victims and perpetrators to correctional restorative justice programs that arrange meetings between victims and prisoners.

The restorative approach to addressing crime assigns a prominent role to the victim. Restorative justice advocates argue that victims are better served by an attempt to reconcile, where appropriate, the victim and the offender. When this occurs, the offender accepts responsibility for the offense, expresses remorse for the crime, and often makes some practical form of compensation to the crime victim. Under a purely retributive justice system, which focuses on punishing the offender, the benefit to the victim—beyond seeing the offender punished—may be negligible.

Although some researchers have questioned the extent to which restorative justice proceedings serve the interests of victims, this approach does focus attention on the connection between victims' participation and their welfare. The importance of victim voice in proceedings, on the one hand, and victims' role in the reentry of offenders (which is the ultimate purpose of restorative justice), on the other, has increasingly been recognized in justice practices around the world. This change is partly a result of victim advocates' efforts on behalf of victims, and partly of research findings that challenge prevailing beliefs and myths about victims' interests, motives, and the consequences of input into sentencing. Research has questioned common assumptions that victims are vengeful by showing that they can also be forgiving or, at least, merely expressive about what they perceive as injustice (a lenient sentence or a lack of compensation). Research indicates that many crime victims, particularly of serious offenses, are eager to describe their victimization experiences. They want a voice to communicate a sense of the harm they sustained more than they wish to influence the sentence that is ultimately imposed.

21.5.2 Therapeutic Jurisprudence and Specialized Courts

Because only a minority of criminal cases are diverted to restorative justice schemes—the precondition that the perpetrator agrees to accept responsibility for his or her action has not been met—legal scholars have attempted to transform adversarial legal procedures into "victim-friendly" proceedings. This new approach, *therapeutic jurisprudence*, focuses attention on the emotional well-being of those who come into contact with law and the legal system. It is a perspective that regards the law (rules of law, legal procedures, and roles of legal actors) as a social force that produces behaviors and consequences [Wexler and Winick, 1991, 1996]. Therapeutic jurisprudence places emphasis on maximizing legal participants' psychological welfare and minimizing harmful effects on them. This perspective also offers an alternative to the conventional retributive model of criminal justice, as it assigns

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a prominent role to the victim and attention to his or her welfare throughout the proceedings. Therapeutic jurisprudence has been applied in criminal courts that employ adversarial proceedings, adding expectations that all legal actors—judges, prosecutors, and defense attorneys—ascertain that victims' concerns, wishes, and hardships are addressed. Therapeutic jurisprudence principles and goals do not trump other justice system goals or fundamental justice principles, but they do represent a guide for how to accomplish them in a way that is respectful, empowering, and therapeutic to all legal participants, including the victim. The emphasis on the therapeutic nature of proceedings facilitates and encourages victim participation and expression.

Another approach to integrate victims and accord them increased attention has been through the establishment of specialized courts. Over the last decade, a growing number of court-based, "problem-solving" initiatives have been developed in the United States and other countries. These problem-solving or specialized courts seek to address the "root causes" that contribute to criminal involvement of certain types of offenders or offenses (e.g., mentally disordered offenders; juveniles, perpetrators of domestic violence). Although the impetus for creating specialized courts came from a realization that certain offenders would be better served by a therapeutic rather than punitive approach, this approach has also benefited the victims in these crimes. The victims in these courts are provided with increased support, since these courts also hold the offenders involved accountable for their offenses. To an extent, specialized courts combine the need to establish courts that address specific or special problems and apply therapeutic jurisprudence principles in their proceedings [e.g., National Institute of Justice at http://www.ojp.usdoj.gov/nij/topics/courts/specialized-courts.htm].

21.6 Conclusion

As a result of a number of developments, including the rise of restorative and therapeutic justice approaches, victims in common law jurisdictions now have far more input into the criminal process than was the case some decades ago. Victim participatory rights are currently recognized as an important component of criminal justice proceedings. Research has shown that victim participation in justice can be helpful to those victims who want to be included in proceedings and that victim participation in criminal justice does not necessarily result in difficulties or create problems for the smooth and efficient operation of the criminal justice system. However, because victim participation in sentencing decisions challenges traditions and established patterns within the criminal courts, these rights sometimes encounter resistance to their implementation. Overcoming this resistance is sometimes difficult because some legislative reforms lack remedies for

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noncompliance. Victims' participation at times depends on the luck of the draw, that is, whether a victim encounters criminal justice personnel who accept and actively support victims' rights.

Research has demonstrated that the right to participate in proceedings, including the right to be heard at various points in the criminal justice process, can be important to crime victims. Victims are often interested in participating in the justice process, and they want an opportunity to describe, in their own words, the way that the crime has affected them. Court procedures seldom provide victims with an occasion to construct a coherent and meaningful narrative. Different countries have legislated means to provide victims with a voice at proceedings to allow them to express the impact of the crime on their lives. In adversarial legal systems, the VIS is a tool by which victims can articulate their suffering, identify their concerns, and communicate the way their lives have been affected by the crime. However, VIS schemes vary widely in nature and have had variable degrees of success. Although they have been imperfectly implemented in some countries, systematic research suggests that victims who submit statements generally find the experience beneficial.

As legal cultures are transformed—as legal professionals become aware of the multifaceted benefits of integrating victims in proceedings, on the one hand, and the lack of empirical support to the argument that victim participation have adverse effects on defendants and the justice system, on the other—victims will be increasingly perceived as a legitimate party in proceedings. However, ultimately it is the underlying value system and ideology that will determine whether and to what extent victims are meaningfully integrated into proceedings.

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Spatial Analysis of Street Crimes

22

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22.1 Street Crimes: A Rising Trend

Street crimes fall within a category of offenses that have seen the largest increase in the last 20 to 30 years and include such crimes as theft, muggings, assaults, and many other offenses in different social contexts. According to

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UN reports, "Levels of crime are higher in urban environments than rural ones in every region of the world." The highest levels of crimes are also found in cities experiencing rapid growth, which means cities in developing countries present higher levels of victimization than cities in developed countries [ICPC, 2008]. According to international victimization reports, "Two thirds of the inhabitants of cities have been victims of some kind of crime at least once in a five-year period," and the probability of these having occurred in public spaces is very high.

The urgency involved in tackling street crime has led to contributions from several different disciplines in putting forward policies concerning public safety and proposing urban interventions needed to counter this phenomenon. The actions proposed range from repressive measures, such as increasing policing, to more severe sentencing of offenders, to preventive measures. Within this last category are measures of an educational and social nature that target the inclusion of minorities and their access to urban services from which they have been excluded, as well as interventions in urban space aimed at ensuring places are safer.

Street crimes are aggregated in a specific category because they take place in public spaces in cities and involve all kinds of people, with there being little or no distinction as far as the victim is concerned in terms of social class, age, or gender. Crimes in public spaces also tend to receive more attention from the mass media and thus have more impact on society. Therefore, any increase in the incidence of crime prompts widespread feelings of insecurity. As a result, people feel they are at the mercy of criminals virtually anytime and anywhere. The city, which was originally designed to provide a secure environment for its inhabitants, is now considered the prime locus of insecurity and fear.

22.1.1 Urban Fear and the Emergence of Hostile Space

The presence of street crimes together with the perception of an absence or a failure in the system designed to protect the public has fueled a growth in urban fear. This now widespread fear has led to people seeking such individual means of protection as security locks, bars on windows, bullet-proof doors, high walls, and more elaborate alarm systems. If conditions are favorable, collective measures are implemented, including systems to control access by the public, gates with surveillance cameras, or private armed gatekeepers or security guards. The spatial result of this indiscriminate search for protection was first described by Ellin [1997] as the "architecture of fear."

This architecture creates what is deemed hostile space, and it has been spreading on a global scale. This is also reflected in the growth of closed condominiums, in the demand for semiprivatizing public space, and in the call for measures to discourage the loitering of certain users in public places

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(e.g., by deterrents to teens' noise sources). Fear has been the greatest spur to models of recent changes in cities, and it is precisely the security measures that disfigure the atmosphere of the streets, of neighborhoods, and of urban life in general.

Fear also leads residents to adopt different behaviors for reasons of safety and to change routines in their neighborhoods: they avoid going out at night, use cars for short trips, and spend less time on the streets. Fear also leads people to be frightened of and distrust others who use the same space, whether those others are groups of adolescents, the unemployed, or any person identified as a stranger. The evidence shows that, in fact, the new "privately secured" buildings are largely responsible for the growing vulnerability of public spaces, which, as they are no longer used by their natural users, favor the presence of potential offenders.

The search for security has resulted in contributions from the most diverse scientific fields in criminology, among them such spatial disciplines as geography, architecture, and urban design. The former subjects are better known for putting forward proposals to design safe spaces. Crime prevention designs have been criticized for having assumed a deterministic stance that advocated changes made to public space that would necessarily imply changes in society.

As a counterpoint to this, the most recent spatial studies consider the relationship between space and phenomena of society as multifaceted and complex, suggesting that public space thus cannot be viewed simplistically. On taking a more scientific view, the so-called spatial disciplines have set themselves the task of discovering laws and regularities through systematic empirical investigations that may contribute to a broader understanding of the problem. With a view to understanding the recent contributions of points of view regarding space in criminology, there is a need to distinguish the two main lines of thought, or paradigms, regarding the space-crime relationship and the understanding of the role of space in this equation.

This chapter discusses recent research and studies on space and street crimes by presenting different studies and, above all, by identifying the potential and limitations of some of them.

22.2 The Space-Crime Relationship

The recognition of space as an important component in understanding why crimes occur is relatively recent, as are the studies exploring this relationship. It can be said that more investigations that look at the space where crimes occur were made after the 1980s, largely prompted by the environmental criminology theories formulated by Brantingham and Brantingham [1981]. These Canadian authors start from the premise that crime exists only

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in the presence of four elements: the law, the criminal, the victim, and space. Having adopted this multidisciplinary vision, they argue that space should be considered not only as the scene of the crime but also as an important component in its factual development with regard to its timing, its sequencing, and the conditions that lead to the crime's being committed.

Although aware of the role of space in terms of human behavior, most social disciplines recurrently ignored the objective qualities of space when defining a specific social situation. In the early 1980s, Hillier and Hanson [1984] mentioned the tendency of social studies to disregard space, and of spatial studies to disregard society, thus: "The main difficulty rests in the paradox of finding a relationship between abstract immaterial 'subjects' and a material world of objects."

Hillier goes on to stress that "every spatial process that generates our built-up environment is also a social process, and every spatial pattern of crime is also a social pattern of crime."

However, to relate qualities of space to the occurrence of crimes is not a simple task. There are several characteristics of space both on a macro and a micro scale that are considered relevant to understanding the spatial patterns of crimes. Morphological qualities of space have been recurrently associated with patterns of crime: the size of the city, its form, the size of the blocks, these are physical aspects that determine a system of city accessibility, its natural movement, centralities, and main thoroughfares.

The morphology along with the built environment typology define other important qualities at the micro scale of the city: the width of streets, the interface of public with private space made by doors and windows, the presence of front and rear, lines of visibility allowing vigilance and control, and the like. Other environmental aspects are added to these, including conservation of buildings, state of environmental cleanliness, and street lighting. The mix of uses also adds social conditioning factors. All these aspects are recognized as important and seen as causes of greater or lesser social vitality, for they explain the presence of rhythms and movements of the city, the population distribution, and the customs and habits of people in different spatial locations. It is also necessary to recognize that the diversity of factors and the relativity of meanings in different contexts make it difficult to formulate and generalize interrelations within these environments.

The significant number of localized studies, together with the scant interest in comparative research, has hindered the cumulative results needed both to understand the role of space in the occurrence of crimes in various cultures and to reach an understanding of what can be generalized and what is specific. We can say that almost all knowledge emanating from the literature on criminology and space comes from American and European experiences, with very few contributions on contexts outside mainstream societies.

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22.2.1 Historical Paradigms

The main perspectives that address security in the city are aligned with either of two paradigms that diverge on the structuring of secure spaces. One approach advocates the qualities of security in small, segmented, and controlled spaces; the other advocates the advantages of openness, copresence, and social friction. According to Schneider and Kitchen [2008], in a detailed and thorough assessment of the relationship between crime and the built environment, there is still little research and empirical evidence in the area of criminology that might corroborate the logical thought process advocated in relationships such as between space and social behavior.

Historically, the main voice on space and security was that of Jane Jacobs [1961], who saw in segregated urban spaces, in streets with little movement, and in the specialization of uses resulting from the precepts of modern architecture a reason why the social fabric of the city weakens, thus facilitating delinquency. Jacobs still represents a current theoretical approach with many adherents, most of whom believe that the circulation of people in public spaces guarantees the necessary social watchfulness and, therefore, its efficiency in inhibiting criminal activities in urban areas. This line of thinking signals a paradigm that advocates space with higher density and movement, which is open for mixed use, as well as spaces that are integrated into the structure of the city, as promoting greater security for its residents.

Another classical approach, originally advocated by Newman [1972], is based on a contrary position. He saw in the density, in the movement, and in the presence of strangers reasons for nonidentity, social withdrawal, and collective insecurity.

This second perspective created the concept of defensible space and resulted in principles of urban design. The prescription of rules and norms of urban design focused initially on residential areas and were aimed at promoting closed spaces with various forms of control to strengthen the level of social vigilance exercised by the inhabitants. The notion of social watchfulness is a basic concept in this defensive approach. Following the thinking of natural vigilance of Rubenstein and others [1980], defensive space proponents developed the notion of social watch, in which the residents of a particular area trust each other and when they see strangers, are capable of intervening in their comings and goings.

This view of watchfulness is noted for arguing for smaller, enclosed, less dense, and highly controlled spaces. Socially embedded in this construction is the belief in constructing a community that is active through its experience in space. This approach assumes that changes in the physical layout of a site can positively affect social interaction and prevent the occurrence of crimes and the fear they cause.

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Despite the success of this approach with local governments in various parts of the world, keen to implement physical measures of security, the results obtained have often been criticized [Shu, 2000; Taylor, 2002; Hillier and Sahabaz, 2008]. Research shows that these closed spaces are, in fact, no safer than other spaces, nor do their residents feel more protected. Theorists concerned with the city also criticize the tough stance of "control" and its effects on society. As stated by Zukin [2000], this method leads to the proliferation of various "non-places," which cause profound social ills. For Simon [2007], the shadow of larger threats, such as recent acts of terrorism, has undermined the basic principles of rules of trust, sociability, and shutting in, both spatially and socially. Such threats have weakened some basic fundamental democratic principles in the developed societies under their shadow [ibid.].

22.2.2 The Way Ahead

Advances in the area of space-crime have been, and will undoubtedly be, marked by technological developments. The presence of computer programs able to handle complex data in this field of research encourages more sensitive and comprehensive analyses. Theories and methodology for the future have been characterized by their ability to describe and make sense of phenomena that are constantly changing and that shift in time and space. After all, as already observed in the game between cops and robbers, the advantage lies with whoever has the power to anticipate the favored actions and situations of the other. The new approaches spring up by consolidating theories at the same time as stimulating and providing new research methodologies.

22.2.3 Crime Prevention through Environmental Design: A Normative Approach

The most widely known space-crime approach is undoubtedly Crime Prevention through Environment Design (CPTED), an environmental criminology theory, based on Jeffrey's criminology concepts related to a set of propositions in terms of crime prevention [1977]. The CPTED approach's principles and guidelines for safe places are disseminated internationally through training courses, handbooks, and publications, which are being widely implemented throughout the world.

The CPTED approach sponsors similar principles of defensible space in forging territoriality, guaranteeing natural surveillance, and inserting symbolic elements to foster social and communal ties among inhabitants. Design guidelines aim to strengthen place defenses using target-hardening measures, intensive control, a hierarchy of space, and good management and maintenance. Characterized by its presentation of defined physical directives,

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CPTED has, perhaps as a result of its clear means of application, been well received by local agencies in the United States, England, France, Canada, and Australia, particularly in the planning of urban residential districts and in the design of housing projects in several cities [Schneider and Kitchen, 2002].

The CPTED approach's methodology considers and evaluates three functions of space: (a) the designation or reason for its existence; (b) a definition of the social, cultural, and psychological designations given by the users; and (c) the design and evaluation of spatial qualities as facilitators of the intended behavior. Aiming at greater applicability, concepts for safe places originate in easy procedures and training techniques showing how to use elements for the deterrence of illegal behavior, the detection and control of perceived threats, and the delay of criminal acts (called the *important Ds*)—all this in order to allow human agencies to react, to report, and to discriminate levels of threats and ultimately to neutralize any danger [Sorensen, Hayes, and Atlas, 2008].

First-generation CPTED guidelines directly recall situational crime prevention techniques of opportunity-reducing measures, and consider that "almost every type of 'street crime,' crimes against person or property, [is] in some way influenced by physical design and layout, or by situational factors such as the presence of the victim or target, the lack of guardianship and/or surveillance opportunities" [Sorensen, Hayes, and Atlas, 2008].

The second generation of CPTED moves ahead in answer to criticism about the excessive focus on space, paying more attention to four new aspects: Social Cohesion, Connectivity, Community Culture, and Threshold Capacity. The notion of prevention now includes the fact that the participation and engagement of inhabitants in their public space are indispensable; it also now assumes the need to consider other forms of internal violence, including violence against women, old people, children, and minorities.

On the one hand, second-generation CPTED makes some advances, accepting the neutrality of spatial solutions and the necessity of treating the "cultural, social and emotional needs of people at the specific locales where crime is or may be most acute" to effectively reduce the motives for such crimes. On the other hand, its guidelines are now far less easy to generalize.

The CPTED approach's strategy to promote social cohesion by, for example, enhancing relationships between residents, establishing some form of social glue and positive esteem, can be efficient in poorer communities or for minorities but is far more difficult to apply in certain other populations and/or other cultural contexts. In Latin America, for instance, it is evident that the level of sociability between neighbors in the more affluent residential areas is minimal, and notably so in gated communities. This absence of any real sense of community can explain the presence of antisocial behavior and even internal criminality within these social enclaves, where the space was artificially designed to induce social cohesion [Caldeira, 2000].

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Gated communities are solutions that, at least in principle, obey the rules proposed by CPTED. In the more affluent social groups, cultural identity is definitely not related to spatial relations [Monteiro, 1989] but more to other cultural codes.

The original nature of CPTED's guidelines was characterized by local interventions and by treating urban spaces in isolation rather than as part of a whole, and CPTED has recently widened its focus to counteract such international threats as terrorism [Atlas, 2008]. But it is still too early to have any empirical results to evaluate the success of this new approach.

To sum up, CPTED has been responsible for the most widely used and successful tenets for crime prevention on the planet. Although this success has also been criticized, there are still very few systematic and longitudinal surveys that have analyzed the results and that can cumulatively answer any doubts about the real effectiveness of these solutions over the long term. The persistence of criticism and the divergence of standpoints underscore the need for empirical studies and comparative research based on the data and results, which would support and demystify the viewpoints inherent in both arguments.

Another perspective of spatial studies, the space syntax, is characterized by the feeding of its theories with empirical knowledge promoted by the development of specific methodologies, since "the insufficiency of evidence-based knowledge corroborating or refuting different theories and perspectives is due mainly to the absence of a rigorous methodological approach for space description" [Sahbaz and Hillier, 2008].

22.2.4 The Social Logic of Space and Crime: An Analytical Approach

The theory of social logic of space [Hillier and Hanson, 1984; Hillier, 1996], or space syntax, as this theory is better known, is a theoretical and analytical approach providing a consistent way to describe the built environment revealing its physical and social properties. The possibility of measuring and comparing spatial structures led to the development of a new perspective of spatial analysis.

The relationship of space with such social phenomena as the actions, activities, and behavior or feelings of the people that live there is complex. As such, the studies along these lines are generally based on the characterization of a series of space relations, from their articulation in a global structure, which can be the link in terms of accessibility from one street to any other in the urban system of a city, to the level of local relations where spaces are closer. These relations are translated into mathematical measures that establish a scale of reference, which allow us to investigate these relations in statistical terms.

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The modern applications of spatial syntax and its results make it increasingly evident that technological advances have produced software capable of detailed descriptions and correlating multivariate and complex data, thus undermining the regularities associated with relations between social and space phenomena.

Another advantage offered by space syntax is that it allows us, based on our knowledge of any given situation, to simulate the effects resulting from spatial changes. As such, by providing information about the relation between the movement of people and the occurrence of crimes, we can use the levels of movement of passersby in a space to simulate the probability of the risk of crimes of a similar nature taking place in other comparable locations.

The previous considerations made by Hillier about the configurations of space and behavior identify such primordial relations as the fact that enclosed and blocked-off spaces break with the traditional logic of organizing cities [Hillier, 1988], show proof that the configuration of a spatial structure results in the emergence of a natural movement of people [Hillier et al., 1993], and identify which aspects would make streets safer [Hillier, 2004].

The space syntax opened a whole new line of research on space and crime, initially exploring the way accessibility patterns of different housing layouts correlate with crimes of burglary, vandalism, and car theft [Shu, 1999]. Studies in different countries look at accessibility and crime [Greene and Greene, 2003; Reis et al., 2003; Monteiro and Puttini, 2009; Baran, Smith, and Toker, 2007], the layout of neighborhoods [Shu and Huang, 2003], the interface between private and public spaces [López and van Nes, 2007], and street networks [Hillier and Sahbaz, 2005].

22.3 The Variety of Street Crimes

One problem that arises when embarking on a critical reading of research studies on space that focus on street crime relates to the range of possible definitions. Whereas some studies consider burglary and car theft street crimes, others include snatch theft as well as robbery.

Street crime was defined by Sahbaz and Hillier [2007] for a London study as "a robbery where the victim is a person or a group of people; the victim is aware of the event; and the location is the public open space." Furthermore, robbery in the streets can be either an offense against property or an assault against the person [ICPC, 2008:29], and in most cases this usually involves physical violence. This is also the case of armed robbery or assault, which always features psychological violence. Given that the investigations treat a wide-ranging phenomenon like street crime, it is difficult to usefully compare results. The existence of a huge array of street crimes common in other contexts and almost unnoticed in recent literature even further reduces the reach of knowledge generated.

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Latin American cities, for example, present types of urban assaults and crimes characterized by their violent nature. Such crimes vary enormously, according to social context, and demonstrate the distinct strategies elaborated by the criminals involved, as well as their boldness in light of their confidence concerning impunity and the inefficiency of public security.

One such type of crime is the sweeping gang raid, characterized by a criminal act carried out by a large number of people. The group acts swiftly and violently, moving in a squad robbing everyone in its path. These gang raids cause a huge amount of public consternation, similar to those seen in scenes of urban guerrilla warfare. The gang raids are carried out in public places, often on beaches, at public music events, and during carnival, making it difficult to predict when and where they will take place. Such raids are an example of street crime committed by highly organized gangs.

The foregoing type of crime has been seen in new forms and in cities like Rio de Janeiro, where the drug-trafficking organizations are highly organized and heavily armed, which has led these crimes to take on a different dimension in terms of the violence used. One type of assault in public consists of the criminals closing overpasses, underpasses, and highways in a lightning operation to stop the traffic and steal any and all items of value from the occupants of numerous vehicles. Spaces such as overpasses and underpasses serve as a trap where the absence of escape routes or any urban interface puts people at the mercy of the criminals.

This same type of urban crime also takes place in the wealthier residential districts that have high-walled buildings and one-way streets that also act as traps. Criminals in cars block the road at both ends (called a *mouse trap*) and steal the belongings of all the drivers and passengers. It is important to note that in these cases, the morphology of urban space plays a crucial role in the occurrence of such crimes.

A second type of crime on the increase is lightning kidnappings, when the victims are approached in their cars while stuck in traffic or stopped at traffic lights. The act is characterized by an extended period of armed robbery, since the victim held is forced to withdraw money from ATM machines or make credit card purchases in stores. The victims generally spend hours with the kidnappers, often in the trunk of a car, suffering physical and psychological violence and even, in some cases, death. The criminals involved in these lightning kidnappings also target people generally less able to defend themselves, as, for example, the elderly or women coming out of banks.

One type of lightning kidnapping involves the payment of a ransom; often the targets are children leaving school, after which the children's mobile phones are used to threaten the parents to deposit a ransom in a bank account. There have also been cases of pets (e.g., dogs) being kidnapped at the entrances to the buildings where their owners live and being returned only

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after a ransom has been paid. False kidnapping is a kind of extortion, since the victim is not really abducted but kept out of reach in such locations as schools and cinemas. The criminals telephone the parents of the false kidnap victim and demand the swift payment of a ransom, usually made through an Internet deposit, for their victim's safe release. This is often referred to as *virtual kidnapping*.

Assaults in traffic committed by pairs of criminals on motorbikes is another type of crime that has led to a wave of fear; it has led to the generalized behavior in Brazilian cities of driving with the car windows permanently shut, using blacked-out windows so nobody can see inside, and even using bullet-proof vehicles. This type of attack legitimizes the practice, now common in Rio de Janeiro, of not stopping at red traffic lights at night.

A clear distinction between these offenses is of great importance for spatial analyses, since each of these actions involves different logical modes of action and, therefore, of spatial behavior. The analysis of spatial patterns of crime thus correlates the objective qualities of space, making "careful consideration of what offenders do, their actions, and the salient characteristics that distinguish one criminal's actions from another's, rather than an attempt to build explanations on inferences about putative motives" [Canter, 2000]. The new direction of studies on crime and space is characterized by a detailed look and mapping of crime scenes, analyzing space qualities and correlations between these qualities with each type of crime committed.

Space syntax research contrasts with the geographic mapping of hotspots and "has pointed to the importance of looking at non-clustered patterns, that is the kinds of locations at which certain types of crimes took place, but which are dispersed throughout the grid and do not appear as clusters or hot spots" [Hillier and Sahbaz, 2005:452]. According to the authors, the emphasis on hotspots analyzes "independent of precise spatial and physical features of locations has perhaps distracted attention from the core problem" [ibid.]. The several studies that follow this approach are new and exploratory, venturing into investigations of the complex relationship between numerous traits related to space and crime, whether on a macro scale such as location and accessibility or on the micro-scale characteristics of buildings and streets.

Understanding the relationship between the urban street network and crime is not simply a matter of measuring the properties of the street network and correlating them with levels of crime. Cities are highly differentiated spatial systems, with huge variations in movement and activity levels, built form densities, and mixes of land use from one part to another. These variations will inevitably influence crime rates, if for no other reason than that there are far more opportunities for crime in some areas than others [Hillier and Sahbaz, 2005:454].

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22.4 One Space and Different Visions

Space is an objective entity, which presents concrete qualities that can be described, measured, and evaluated; yet such objectivity breaks down when we analyze how these features are perceived by people. Individual perceptions are countless and depend on the social background of the user, on their objective at the place in question, and on the significant symbolic baggage of their relationship with the place and the city.

For most environmental criminology theories, perceived spatial features provide opportunities for the offender to eye up. That is why there are such different approaches as situational crime prevention, routine activities theory [Cohen and Felson, 1979], the geography of crime [Evans and Herbert, 1989], and rational choice theory [Cornish and Clark, 1986], which have in common looking at the crime scene from the offender's perspective.

David Canter, the founder of investigative psychology, is one of the psychologists dedicated to understanding criminal profiles and to uncovering the spatial patterns of certain types of crime. According to him, for the thief, the act of stealing is conceived as a task-oriented activity in which the most favorable opportunities are sought for the approach, the act, and the escape. Therefore, thieves tend to act in known locations and environments or those that form part of their daily routine or are close to places in which they have control and give them easy access to their home, workplace, or place of leisure (i.e., places where they feel secure).

There are few studies analyzing space from the victims' perspective, considering their perceptions of security in different places or assessments of what spatial features make them feel at risk [Roundtree and Land, 1996; Shaw and Gilford, 1994]. However, these studies present a tendency for abstract and general evaluations rather than detailing characteristics of specific locations.

Another perspective looking at space, crime, and time proposes the concept of risk, as Hillier and Sahbaz [2005] explain:

> People's behavior is embedded in an intuitive risk assessment of being in determined places. In this way, people feel safe in lively streets, full of people, rather than in an empty one, even if the number of crimes are higher in the first situation. The main idea is to measure the chance of crimes being committed in a specific location, at a certain time, depending on the conditions of use.

The intention is to describe and understand the way both the criminal and the victim use the space. Thus we next discuss the research results on the spatiality of crimes as well as the role of different morphological, typological, and environmental components in the way the victims or the offenders move, act, experience, and think about the city.

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22.4.1 Key Spatial Features

Several studies stemming from a syntax analysis of macro and micro spatial relations offer research-based evidence that can be used to discuss crime and urban design. Hillier and Sahbaz [2005] warn about the need of precise descriptions and spatial measures but also suggest that "design variables do not act independently, but interact, so that all must be got right together if there is to be a genuine reduction in vulnerability."

22.4.2 Accessibility and Movement

Accessibility is the most important quality of configurational space playing a major role in defining other variable. The whole city is formed by a network of streets showing links between and among each other, and these determine different levels as to the ease of going from one place to another. Thus, there are streets that are more accessible in the system as a whole, and these are called *integrated streets*, as well as many roads that are said to be spatially segregated, access to which being relatively more difficult.

Spatial syntax provides a tool to consider accessibility and movement in the city. It makes use of an axial map that graphically represents streets by lines, road connections by lines, and intersections and line length in accordance with the angle of vision. The map presenting the successive intersections of each line with all others of the system is the base for all configuration analyses. "Space syntax sees the city as being made up of a network, including a foreground network of high-activity linked centers at all scales, set against a background of lower residential activity" [Hillier and Sahbaz, 2008].

The syntactic analysis of the axial map shows a system of integration, with a structure of most integrated streets and the existence, shape, and size of the integrating core of the city. This integration explains the overall structure of the system, taking into account the accessibility of all the streets in the system and also showing local and regional accesses. The set of the most integrated streets in a city structures an integration core and defines the thoroughfares with the most displacements across the city, from one point to another, from the center to the outskirts. These most integrated lines form nuclei with different shapes and sizes depending on the scale of the city and on the societies that formed them. Accessibility also determines derived spatial qualities, the main ones being movement and the use of land. Figure 22.1 shows a syntax analysis revealing the global and local integrated roads in a neighborhood and the mapping of robbery and theft occurrences.

Cities must be seen as dynamic systems based on movement; and according to substantial data [Hillier et al., 1993; Penn et al., 1988; Hillier and Iida, 2005], movement is shaped mainly by the configuration of streets grids. An integrated street, because of its accessibility, attracts a greater movement of

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Theft cases on a local integration map



Robbery cases on a global integration axial map

Figure 22.1 Syntax analysis of Boa Viagem neighborhood in Recife, Brazil, and mapping of robbery and theft over global and local integrated roads.

people and vehicles than does an inaccessible street. This circulation is often associated with the location of a place that is used to fulfill basic needs such as movement for commercial activities. The most accessible streets or those with the highest integration value have been identified as the safest, particularly from violent crimes. At the same time, they are the most sought after by petty criminals and thieves.

Hillier [1988] and Shu [2000] show the occurrence of burglary, vandalism, and car theft in built-up residential areas in London, where more accessible routes are less vulnerable to these types of crimes than are segregated ones like cul-de-sacs, or dead-end streets [Shu, 1999, 2000; Shu and Huang,

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2003]. Hillier [2004], relying on empirical space syntax data, advocates that crime is highly influenced by the structure of space and, moreover, that there is a likely interaction between the local spatial factors (vulnerability of a specific or residential area) and the global ones (the type of layout of the area).

Initial studies of residential (home) burglary show that cul-de-sacs are the least safe places. But when we use this result concerning the design of residential streets in other contexts, we see that cul-de-sacs can also be safe places when they are integrated within an urban system and extremely unsafe when they are part of a closed and hierarchical structure of cul-de-sacs [Hillier, 2004]. In the same way, integrated residential streets and those with the most movement are generally safer, although the opposite result is often seen if these same locations offer access to hidden areas and backyards.

The analysis of crime and accessibility expressed by street levels of integration draws attention to the fact that in the different contexts of American cities [Baran, Smith, and Toker, 2007], for example, a high correlation is found between integration and the occurrence of muggings, robbery, and vehicle theft. According to Nubani and Wineman [2005], the idea that integrated streets are likely to be safer than other types did not adhere to American cities, with their strong automobile-dependent culture, where walking is not part of the normal lifestyle.

Analysis of levels of street integration and thefts in housing estates in southern Brazil [Reis et al., 2003] also shows that the most accessible routes have the highest movement of people and the greatest number of crimes, and they are also perceived by residents as less secure.

The apparent contradictions between levels of accessibility and types of crimes are largely based on generalizations made from studies that observed accessibility is influenced by different facts in different contexts. As such, accessibility is a spatial feature that should not be taken in isolation, since it is associated with different behaviors in different social and cultural contexts.

22.4.3 Density

Discussion of the effects of density and the occurrence of urban crimes is renewed in the perspective that adopts strategies seeking more sustainable urban solutions and, consequently, more compact cities with more densely populated spaces. Density is a highly spatial quality derived from accessibility and the use of urban space. The most accessible areas are, almost by definition, the most disputed, and one of the ways to maximize the advantages of accessible locations is to increase the density. As such, higher density means more people using the same space, which can also be associated with more movement in the streets. However, this relationship is not direct and is significantly altered depending on the land use and urban design in the area.

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Studies that verify the effects of density on the number of crimes tend to indicate a negative correlation, in which a higher density indicates fewer crimes. However, with density being a quality that is so inherently entwined with others, it is difficult to analyze in isolation. Hillier and Sahbaz consider that a higher density corresponds to more houses in street segments, which would be related to a reduction in burglaries. In this sense, the authors also infer a relationship between higher density and the presence of more openings into streets. This is not always the case in South American cities, where the higher density in residential districts is usually associated with taller buildings (up to 40 floors) and a low interface with public spaces at street level. Analyses of Michigan [Nubani and Wineman, 2005:420] "showed that local integration and connectivity were highly associated with overall crime counts followed by density." The problem with this type of analysis is that density is associated with many more diverse spatial qualities, and these are not described much in the literature. This is perhaps one of the least explored aspects in spatial analyses and is the area in this field with the least conclusive results in terms of its vulnerability to crime.

22.4.4 Land Use

The most important factor related to land use in relation to crime is, not the actual distinctions of use, but more the presence of a diversity of uses in one particular space. Results show, as a trend, that strictly residential areas are at a disadvantage in terms of vulnerability compared to areas of mixed use. However, the level of safety appears to be directly related to the level of diversity. A composition that is slightly more commercial and service oriented in residential areas appears to invert this quality, bringing in more strangers and increasing the level of insecurity. On the other hand, commercial areas even with limited residential use are associated with higher safety levels.

Commercial locations have a strong temporal influence and are characterized by spaces with characteristics that change from night to day, with intense movement at determined times and an absence of activities at others. This changeling character is strongly associated with the high frequency of street crimes in Brazilian cities [Monteiro and Puttini, 2009]; for example, rush hours are usually associated with the change in these flows of movement.

The effect of land use in conducing to crime is not restricted to the analyses of movement but involves the transformations of spatial characteristics: interfaces of open doors and windows are closed, visibilities interrupted, street accesses gone, and lighting often switched off, making the strictly commercial areas rather sinister at night.

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22.4.5 The Urban Interface

The urban interface constructs a delicate relationship between private and public space. Most studies focus on the micro scale of urban space, and it is on this scale that most of the crime prevention schemes are proposed through the use of urban design.

According to Hillier and Sahbaz [2008], "The aim of micro scale spatial analysis of crime should be more importantly finding out how we can improve the conditions given by configuration, within the boundaries of the overall effects." Since city centers will always be more prone to crime because of their configurational properties, they believe "we should be after finding out parameters to aid us in eliminating the secondary inducers of crime, make the centers safer for individuals and riskier for offenders to commit crimes" [ibid.:8].

The relationship between private and public space is characterized by a series of topological factors that define the form of the streets, including the number of street accesses to buildings, the visibility between these two realms, the distance of entrances in relation to common spaces, the number of windows with street views, and the presence of trees and landscaping elements, among other things. We consider next some of the more explored notions of these spatial characteristics in studies on crime: constituency, visual permeability, depth, and lighting.

22.4.6 Constituency

When a building has direct access to a street, we say that it constitutes the street; and when the street does not have buildings directly linked to it, we say it is unconstituted. The degree to which any given street is constituted depends on how building entrances are connected to it. Constituency or the lack of it, then, is about the degrees of adjacency and permeability from buildings to public space [Hillier and Hanson, 1984:42]. Figure 22.2 shows a

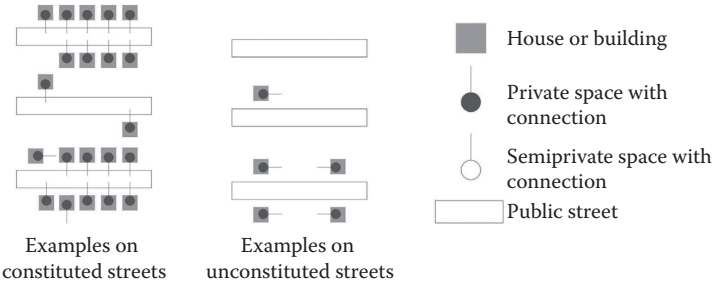
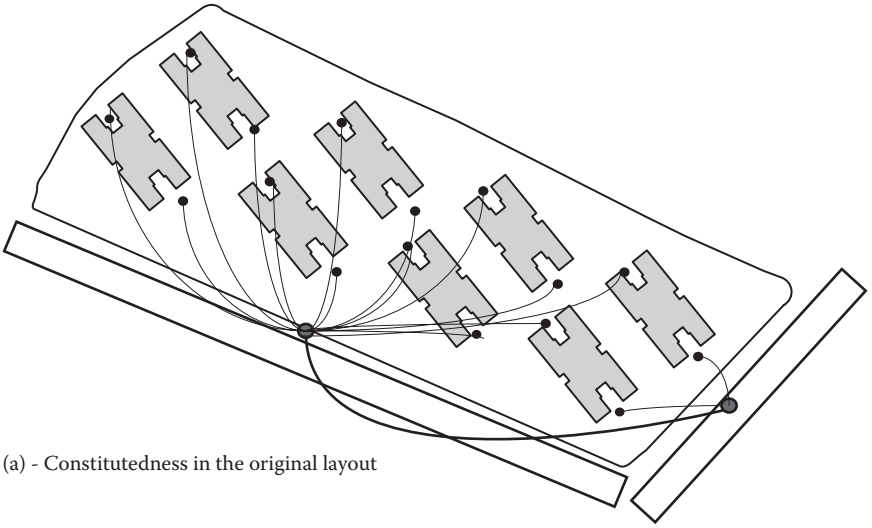


Figure 22.2 Diagram showing the degree of constitutedness in streets. (From van Nes, A. and M. López, *Proceedings from the 6th International Space Syntax Symposium*. Istanbul: Istanbul Technical University, 023-04, 2007. With permission.)

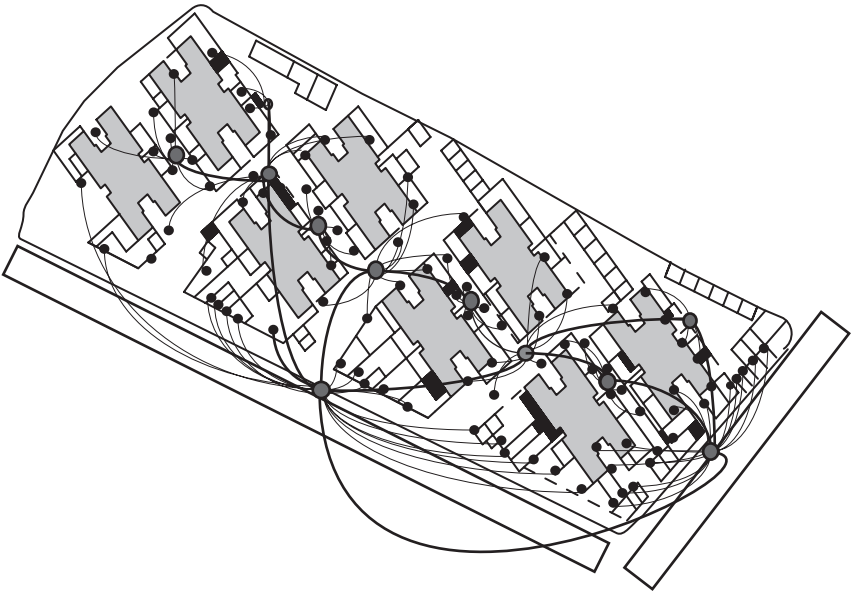
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representation of the types of constructions built in relation to the openings of buildings into the street.

Figure 22.3 presents the transformation of the interface in a modern residential complex in Brazil, where the inhabitants, after successive modernizations of their homes, opened up direct accesses from their apartments



(a) - Constitutedness in the original layout



(b) - Constitutedness after dwellers' transformations of their apartments with the creation of traditional street interfaces.

Figure 22.3 Representation of contitutedness in a modernist block of residential buildings in Brazil.

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to the street, to a certain extent seeking the quality of doors opening onto a street (constituency) present in more traditional cities. Another way of characterizing this relationship is by quantifying the percentage of buildings with openings onto the street, an approach used by Shu [2000] in different analyses of the layouts of residential areas. This is the characteristic most strongly linked with crime levels, which shows that the less constituted streets are targets for more break-ins and car theft [Shu, 2000], gang activities, and attacks on passersby (muggings).

The trend seen in cities with high levels of crime is to make this connection more distant and quicker. The entrances of large buildings are built at higher than ground level, thereby serving as promontories or urban panoptics. The garage doors are opened automatically with timers adjusted to the shortest opening time period possible, given that the moment of relaxation on arriving home offers an opportunity for criminals to hold up or attack these people.

Any change in this trend to close off streets is a huge challenge, since it means inverting a fundamental notion of security and safety among the population, an idea even promoted by urban designers, who, in reality, provide the public with solutions to their vulnerability.

22.4.7 Visual Permeability

The intervisibility between private and public space allows for natural vigilance and the possibility of developing social control. Although entrances, internal and external doors, and gates and controlled entrances (constituencies) also act as points of visibility, *intervisibility* is defined by the way buildings have windows, terraces, and other openings that allows the inhabitants to watch movements outside.

The presence of walls offering various solutions in terms of visibility (e.g., railings) can also either promote or impede this external vision. This spatial quality almost presents a unanimous result, showing the existence of a "strong correlation between a street segment's inter-visibility and the risk of residential burglary" [López and van Nes, 2007]. However, the perception of its importance for security still appears not to have been fully understood. Investigations carried out with thieves prove that they consider high walls a positive presence when choosing where to attack. The wall offers the thief safety and control of the internal space and diminishes the risk of the thief's presence being detected externally [Shaw and Gilford, 1994). Even so, high walls are still considered a reasonable solution in terms of private safety and are employed around the world.

22.4.8 Depth of Interface

Depending on the existing architectonic and urban solutions in various cities, depth of interface can be important in understanding the way public

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space is used. Van Nes and López [2007] explain the topological depth as a procedure where "one counts the number of semi-private and semi-public spaces one has to walk through to get from a private space to a public street." Figure 22.4 explains this topological quality.

Topological depth increases in commercial areas as well as in some urban design solutions (e.g., the super blocks in Brasília). They also explain the different choice of routes taken by inhabitants and foreigners to the neighborhoods.

22.4.9 Lighting

The presence of good lighting in urban space has proven to do more than just provide a higher perception of safety than suggested by less lit areas; it is also as an effective crime deterrent. Street lighting provides night vision and the recognition of spatial clues. Although it is not a spatial characteristic, lighting changes other qualities presented herein, even to the extent of neutralizing their positive effects.

A series of other factors and mainly new technology can be associated with space-enhancing safety. The use of cameras and screening devices may add to a sense of safety, although from an environmental perspective, such devices may be considered embedded in space, and thus to be effective, should act in association with the qualities presented. Furthermore, this equipment also represents important research tools that can be used to help shed light on the relationships of space, behavior, and crime, as discussed earlier.

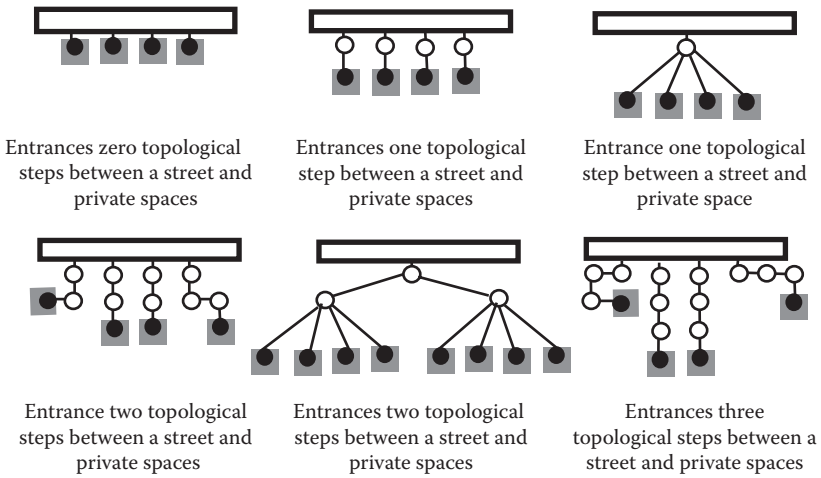


Figure 22.4 Topological depth from the street level. (From van Nes, A. and M. López, *Proceedings from the 6th International Space Syntax Symposium*. Istanbul: Istanbul Technical University, 023-04, 2007. With permission.)

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22.5 Spatial Profiles of Crimes

The discussion developed in this chapter about the relationships between spatial characteristics and the occurrence or patterns of crimes in cities largely shows how the variables or detailed spatial qualities are extremely complex, given that they are often intertwined. The idea of profiling includes the linking together of a series of traits that are able to characterize an object or phenomenon. Similarly, the profiles used by the criminal sciences aim to identify and classify the major traits of offenders' behaviors based on analyzing the details of a crime. Spatial profiles try to work out the characteristics differently, using sequences and patterns that consistently relate to given types of offenses in a context. It also considers the relationship of spatial, social, and temporal conditions together to depict a crime situation [Monteiro and Puttini, 2009]. The approach makes use of multidimensional statistics that allow for correlations to be made between complex sets of variables.

Spatial profiles of crimes obviously set out from the perspective that several characteristics of each situation foster positive opportunities for the criminal act in accordance with the criminal's perception, and thus a profile reveals all the logic of the criminal's modus operandi. This approach links the space of the crime fully to other social, functional, or psychological elements of criminal behavior. The scene of the crime is therefore understood as resulting from a sequence of decisions and of the antecedents that define it.

First, it is considered that the offender's motivation defines the nature of the act, being planned or motivated by disorganized impulses. Second, the definition of the strategy is dependent on the type of victim or property aimed at and the type of recompense expected. The third point, that of choosing the method of approach, will depend on such conditions as the presence of partners or the type of vehicle used for the getaway. Finally, a last moment makes reference to the hideaway both to enjoy, in a safe place, the product of the robbery and to decide on the next offense.

All these decisions taken together involve, in each instance, spatial decisions and choices that depend on the offender's places of reference, on the locations the offender frequents and knows in the city, on where the offender judges he (or she) will most easily find victims, and on the spatial route of the offender's getaway to his (or her) hideaway. The analysis of the spatial profile of the crimes thus allows identification of the multivariate structure of the socio-spatial patterns of each type of occurrence, thereby providing information that can lead to identifying the hallmarks of certain crimes by the way in which individuals or groups perpetrate them.

Against this background, these studies on space can also produce valuable information for investigatory processes. The establishment of spatial profiles also allows researchers to acknowledge the factors affecting lack of security and assess the effective risk of people being victims of crime in certain places.

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The set of spatial profiles of parts of the city, streets, blocks, or even districts allows typologies to be assessed and classified according to a greater or lesser relationship of security, insecurity, or occurrence with different types of crimes. The important matter is to obtain a clear understanding of the socio-spatial elements that together determine such conditions. Figure 22.5 presents the map of a neighborhood block prone to crime showing important traits to understand the crimes occurring after dark. The figure presents two segments showing blocks on the same avenue: Segment A has commercial buildings on both sides and is characterized by a spatial interface that changes dramatically from day to night. Open doors and shop windows with colorful and illuminated displays with no barriers to their entrances are completely closed up and shuttered at night. The openness of the space that attracts users during the day repels their presence during the evening. Street segment A presents a high number of street crimes, represented as dots on the map. On the other hand, avenue segment B is of a mixed composition, with several residential buildings in an estate facing commercial buildings on the other side. This second block shows a consolidated interface with defined qualities in terms of constituency, depth, and visual permeability, which encourages the presence of people, children, and visitors not far from the streets in question.

Representation of spatial qualities helps researchers to quantify qualities and to construct the spatial profile of specific locations. The spatial profile of

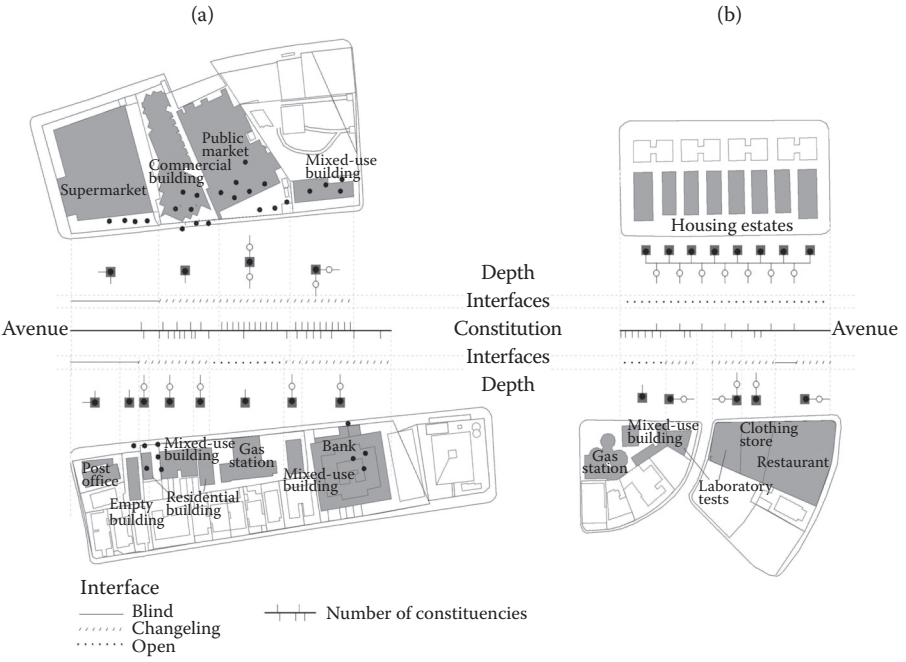


Figure 22.5 Spatial profiles of two blocks in a same avenue with mapping of crimes.

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Table 22.1 The Spatial Profile of Two Blocks on One Particular Avenue in Recife, Brazil

Spatial Profile of Road Segments	Global integration	Local integration	Constitution	Interface	Diversity of use	Density	Depth	Lighting at night
Segment A	5	5	4	3	1	1	2	1
Segment B	5	5	3	4	3	2	3	3

the segments comprises different qualities: the global integration and local integration of the public space, land use, the number of constitutions, visual interface, density, depth, and lighting. The evaluation of these qualities is made according to scales ranging from *very low* (1) to *very high* (5). The spatial profiles of segment A and segment B are presented in Table 22.1.

The segment A spatial profile—55431121—indicates that it is a highly accessible location, globally and locally, which presents a large number of openings, but of a changing nature; it has little diversity in terms of use, a low density of inhabitants, many entrances, and poor lighting at night. Segment B has a profile with higher scores due to the presence of an open urban interface, greater diversity of use, density, and quality of lighting. The crimes mapped by the dots on the figure underline some of the segment's general spatial profile, but they could also present a more detailed profile based on their precise location and time of occurrence.

22.6 Space and Crime in a Context of Significant Social Inequality

As mentioned earlier, most of the studies on space and crime are placed in American and European contexts, which are often a long way from the situations that exist on other continents. In other sociocultural contexts, with significant social inequality between the groups that use the same space, the occurrence of crimes reflects different forms of spatial logic in the perceptions of risks, the assessment of opportunities for crime, and the choices of locations prone to crime.

Sharp social inequality and large-scale poverty are the main trademarks of Latin American cities. The cities are characterized by having poor people living in shanty towns and lower-middle-class neighborhoods situated cheek by jowl with islands of wealth. This mix is interesting from the social point of view, as people from various levels of income share areas of common space and go about their daily lives alongside each other in neighborhood spaces, particularly in the city centers.

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Such coexistence apparently used to generate little conflict. It was almost a symbiotic relationship between the poorest residents, who generally worked in the richest households, and the service sector that needed workers. Criminality has been breaking this pact of coexistence. The increase in criminality, and very often in violent crime on the streets, on the sidewalk, along the promenade, and in the bars, has reached a new high. The inefficiency of the coercive authorities, in addition to the lack of a clear identification of who the criminals are, has made the middle class fortify and isolate themselves behind high walls and non-see-through facades, as well as install tight security systems with cameras, electric fences, and barricaded gates.

Fear makes residents avoid walking out of doors; they even use their cars to go buy bread at the corner shop. Children are taken to nearby schools in bullet-proof cars. Pedestrians are few and far between on sidewalks, which are starting to be used only by people with no purchasing power or workers who ply their trades around the streets of the neighborhood, along with the circulation of passersby, in what Hillier calls "through movement."

There is not necessarily a relationship between the perpetrator and the owner of the object stolen in street crime; and violence, when used with a view to obtaining a victim's property, can affect third parties. One of the major differences between street crimes in Brazilian cities and those in other countries is the level of violence used. Reports on urban crime in European cities record thefts taking place with a minimum of confrontation and with no threats being made to the victim: pockets are cut with knives by cutpurses, there are pickpockets, or possessions are snatched by thieves on motorbikes. Contrary to these contexts, most muggings in Brazil involve a gun or other weapon being wielded in front of the hapless victim. The simple theft of a mobile phone is often carried out with a gun held to the head of the victim, and it often ends in murder. This type of armed robbery, called *assalto*, leaves the criminal carrying the gun feeling empowered and thus paying little or no heed to whatever third party may be watching the deed. Indeed, there are many cases in which third parties are killed because they have witnessed or tried to prevent a mugging.

What such details as the foregoing tell us is that according to this logic of criminal action, the choice of crime location is based mainly on the perception of reward and on being on the lookout for "quality" victims because they have the greatest purchasing power, demonstrated by the type of car or clothes they have or places they go and activities they take part in. What happens in these contexts is that places are impregnated with social meanings bestowed by the class of buildings and users they attract. In this way, a block situated in the same road as similar spatial properties could offer different opportunities for crime, according to the

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criminal's perspective, conferred by the appearance and social class of the inhabitants.

Canter [2003] reminds us that two factors are crucial in the link between victims and criminals: time and space. Arising from this, a series of variables that define situations of greater or lesser danger can change.

It is worth pointing out that in tropical climates, people usually go out at night to meet friends in bars, restaurants and recreational areas. Unlike many European countries, 10 p.m. is the time of the most movement, as it is then that people leave home for evening entertainment spots. The closer to the weekend, the greater the flow is of those seeking evening entertainment.

An analysis of the times of thefts and muggings in the city of Recife, in northeastern Brazil, indicates the presence of two different logics [Monteiro and Puttini, 2008]. Theft occurs with the greatest frequency in the afternoons, followed by the mornings, with this frequency being even more pronounced on Fridays and Saturdays. These are the days on which people get paid, spend a happy hour with friends, and stay late in town. Friday afternoon and evening is also the period when most muggings occur, and this crosses over into the early hours of Saturday, but with a significant drop on Sundays. The beginning of the week corresponds to the days with the fewest occurrences of crimes at any time of day.

The results of the Monteiro and Puttini [2008] analysis corroborate, in part, the observations Sahbaz and Hillier [2007] made in a London borough also characterized by its variety of uses and the composition of its residents. That is, in both settings, in spite of the different cultural habits, rush hours and the times of day with the greatest movement of people correspond to the peak times for such street crimes as muggings and thefts.

Two other hypotheses, outlined previously [Brantingham and Brantingham, 1981; Sahbaz and Hillier, 2007], indicate that acts of theft are associated mainly with local spatial logic, and muggings mainly with global accessibility patterns. That is, those who perpetrate theft seek out their targets in places of daily movement, where victims are going about their daily business, such as going to the bank or shopping, and where they may also be on their home ground and thus have an in-depth knowledge of the vicinity. In different ways, mugging that involves violent attack is thought to take place near the main access avenues and to be guided most by the sense of spatial and temporal opportunity.

Likewise, the study made in the capital city of Recife [Monteiro and Puttini, 2009] shows a clear association between space and time patterns in the two most common forms of street crimes, mugging and theft. The perpetrator of the first seeks situations where there is the greatest movement of people and places of passage readily accessible globally. The occurrences of theft follow a temporal pattern that accompanies activities and everyday comings and goings. The local logic is given a potential

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boost by the presence of activities that generate movement. Although more detailed analysis is necessary, the results suggest specific spatial patterns related to the presence of the street crimes of mugging and theft. These patterns could be better understood if more detailed data on the criminal incident (e.g., the method of approach and the type of getaway) were available.

In all big cities with a significant social imbalance, although poverty and wealth coexist, there is always a fear and sense of insecurity near the boundary lines of shanty towns, or *favelas*. There is a myth that places close to poor areas are less safe and more dangerous. The morphology and typology of poor areas lead to fear in their neighbors, who are used to the logic of the orthogonal city. Most residents in the neighborhood say they are afraid to go anywhere near slums because they fear they will be mugged.

A second myth that runs parallel to this idea is that the poor are criminals or have the propensity to commit crimes. Reality shows the contrary. Residents of shanty towns are mostly honest people with defined occupations and have been living in these areas for a long time. However, a shanty town, because its spatial structure is one of difficult access and high control, may very well serve as a shelter for people with evil intentions.

An investigation regarding the occurrence of crimes in a wealth vicinity of Recife with seven *favelas* located in the neighborhood sheds new light on the general saying that the closer to the shanty, the more dangerous the place. It is to show prejudice to think that the residents of shanties are bandits. This idea is related to the morphology of these spaces, segregated on account of low intelligibility levels and into which nobody has access. It is this characteristic that makes this space attractive for people who have broken the law as a shield from the police.

The socially constructed representation that places close to *favelas* are likely to be highly unsafe could at least be questioned, since crimes increase a lot in regions at a medium distance from these areas. That is to say, if the criminals live in the shanty towns, they operate, not close to home but, rather, in a middle-range distance.

22.7 Concluding Remarks

The aim of this chapter has been to discuss the contribution of spatial studies in understanding the factors that facilitate urban crime. It has also presented the diverse perspectives that focus both on the relationship between space and urban crime, including the development of investigative theories and instruments, and on the studies that seek to provide solutions for the construction of safer urban spaces.

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The slim historical introduction of the theoretical paradigms that structure most of the spatial studies and analyses has served as a reminder of the prejudice developed by taking this route. The first major criticism is based on a deterministic vision of the relationship between space and people's behavior. This premise is present in varying degrees in the various proposals of defensible space, as well as in the normative propositions of how a secure space is represented. The absence of empirical studies and localized evidence based on these positions end up, over a period of time, undermining many of the arguments defended. The emergence of scientific studies to provide a general guideline underscores the fragility of these arguments and the real extent to which the expected results are limited.

A second preconception reflects the dichotomy of the division between space and society and the mistaken notion that spatial analyses do not consider either the specifics of the population or the social and cultural processes that create any given society. Spatial studies are based on the belief that the morphology and typology of the urban-built environment defines its history, the economic system, social distortions, and even the less tangible values that permeate the life of its inhabitants. The challenge of new technologies and methodologies is to perfect and streamline these descriptions by measuring attributes and showing the interrelationships between products of the various social logics that permeate any given city. Understanding the spatial components of criminality allows us to see exactly how in many cultures, spatial segregation generally goes hand in hand with social segregation, which is evident in the form of a lack of access to education, health, urban services, and other opportunities in life, or the factors related to poverty with an increase in criminality. In these realities, which are also associated with high crime rates, it is extremely difficult to perceive the structures, standards, or logic that explains the occurrence of crimes. The concept of disorganized crime, which is impossible to predict, has been bolstered by the immobility and lack of effective action by security forces.

Space as a determining structure of movements within a city correlated with standards of criminality opens up a new perspective for theorizing about criminal logic and behavior, allowing us to draw up policies of public safety using more dynamic instruments capable of dealing with the standards, trends, and changes in strategy of urban crime.

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Understanding Repeat Victimization
A Longitudinal Study

23

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ANDREW COSTELLO

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23.1 Introduction

Crime prevention is at least as old as the first door bolt, and in England it was famously proclaimed as the primary purpose of policing at the time of the creation of the Metropolitan Police in the first half of the nineteenth century. But, in the last 30 years, we have seen in many countries, including Britain, the more systematic development of a set of planned and coordinated governmental activities designed to promote crime prevention activities [see, e.g., Hughes, 1998]. In England and Wales, one of the central aspects of this recent policy focus on crime prevention has been a special interest in the prevention of repeat victimization, a story that has been lucidly told by Gloria Laycock [2001]. Among other things, these developments resulted in the creation, in 1995, of a "police performance indicator" on repeat

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victimization as one of the criteria by which the Home Office could measure the effectiveness of local police forces in the prevention of crime [see Farrell et al., 2000].

In what Laycock [2001] has called the British "repeat victimization story," two strands have run side by side—a research strand and an organizational strand. The research strand has provided a growing body of research into repeat victimization, while the organizational strand has sought to translate these research findings into appropriate crime prevention activities. By common consent, the research leaders in this process have been Ken Pease and Graham Farrell. Ken Pease's interest in repeat victimization first became apparent to the wider criminological community through the Kirkholt Burglary Prevention Project in Greater Manchester [Forrester, Chatterton, and Pease, 1988a; Forrester et al., 1990]. The subsequent recruitment of Graham Farrell has produced a formidable research double-act that has, for nearly two decades, consistently kept repeat victimization high on the agendas of criminologists, as well as those responsible organizationally for crime prevention [see, e.g., Farrell and Pease, 1993, 2001, 2006, 2007; Farrell, 1995; Pease, 1998, 2008]. Undoubtedly, this influential string of publications has become the standard way of understanding repeat victimization—in Kuhn's terminology [1996], the "normal science" of the topic for most researchers.

As Kuhn makes clear, when a particular way of viewing a scientific topic has become widely accepted ("normal science"), those who seek to challenge it face, at least initially, an uphill task. In this chapter, one of our principal aims is to examine such a challenge to the "normal science" of repeat victimization—namely, an important article by Tim Hope and Alan Trickett [2004], which has been largely neglected by Anglophone researchers because it was originally published only in French.* We attempt this task in part by means of theoretical discussion, but more importantly we seek to test both some of Hope and Trickett's hypotheses and some arising from the more well-established (Pease and Farrell) understandings of repeat victimization, against a data set containing information on eight years of recorded crime in the city of Sheffield in the United Kingdom.

23.2 Explaining Repeat Victimization

Historically, the first research study in Britain to draw attention to the frequency of repeat victimization (hereafter, RV) was the pilot victimization survey conducted by Richard F. Sparks, Hazel Genn, and David Dodd [1977] in three London boroughs in the early 1970s. In a subsequent article, Richard

* An English version of the paper has now appeared [Hope and Trickett, 2008], and all quotations from this paper will be from the English version.

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Sparks [1981:766] raised, as a hypothesis, the possibility that "being a victim on one occasion … increases one's future probability of victimization," only to dismiss this in the following terms:

> In some social situations such [statistical] models may be intuitively reasonable, but criminal victimization does not seem to be one of them. For example, perhaps a burglar breaks into a house or store and finds many things worth stealing and few precautions against theft. He tells other burglars about this or plans to go back himself, thus increasing the probability of second and subsequent burglaries. Perhaps a man who has been assaulted may become paranoid and belligerent … thereby increasing his probability of being assaulted in the future. These examples are pretty far-fetched, and not many more suggest themselves. [ibid.:767]

A decade later, however, Polvi and others [1990, 1991] published the first evidence that many repeat victimizations occur very swiftly—often within a month of the first victimization. Their study was of residential burglary, but replications for other offenses rapidly established the "fast repeat" as an apparently general phenomenon in RV [see, e.g., Farrell, 1995:501–7]. These results produced two significant consequences. First, on an analytical level, the burglary example given by Sparks in 1981 no longer seemed so "far-fetched." If the normal time-pattern for repeats were that they occur at random intervals over time, that would be one thing; but the strong "bunching" pattern of repeats immediately after the first victimization suggested inferentially that the two incidents might be causally linked. Second, and more practically, if repeats often occur swiftly, then there would seem to be some obvious implications for crime prevention—in burglary, for example, there would be some definite point in improving domestic security immediately *after* a victimization (or, as Forrester, Chatterton, and Pease [1988b] put it in a memorable title for a magazine article, contrary to proverbial wisdom it would indeed seem to be "best to lock the door after the horse has bolted"). This logic was quickly disseminated to crime prevention teams.

In the late 1990s, Ken Pease was asked by the Police Research Group in the Home Office to produce a "stocktaking report," summarizing the then-current research knowledge on RV for the benefit of police officers and other practitioners [Laycock, 2001:74]. In this report, unoriginally entitled *Taking Stock*, Pease offered the following as a very short précis of some of the main findings of RV research up to that date [Pease, 1998:3]: "Victimization is the best single predictor of victimization; … when victimization recurs it tends to do so quickly; … a major reason for repetition is that offenders take later advantage of opportunities which the first offence throws up."

As will be apparent, in radical contrast to Sparks [1981], the main emphasis in this summary is on victimization as a *boost* to further victimization, with the assumption that the same offenders are often responsible for the

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revictimization. This *boost* explanation is one of what have become the two standard explanatory approaches to the RV phenomenon, the other being usually described as *flag*.* This latter term is derived from the idea that certain features of the person or address tend to "flag" it as a desirable target. To take a simple example, there is research evidence that better-off households within deprived areas are disproportionately the targets for thefts involving cars [see Mayhew, Maung, and Mirrlees-Black, 1993:140–41]. A "flag" explanation of this finding would be that the relatively attractive criminal opportunity offered by these households, and their vehicles, is readily apparent to various potential offenders, without the need for any communication between offenders on the matter.

Although Pease's brief summary [1998] of the key results of RV research, mentioned earlier, seems to emphasize "boost" explanations, it is important to point out that later in the same publication he states explicitly that "everyone will recognise flag accounts as making sense" [ibid.:9]. Hence, he indicated, his concern was "to spell out the evidence for boost explanations of RV, without ever losing sight of the pertinence of flag accounts" [ibid.:9]. In essence, this has remained Pease's position for the last decade, and it has recently been restated [Pease, 2008].

Before moving on to the Hope-Trickett challenge, we will draw attention to two further matters raised by Ken Pease and Graham Farrell. First, both Pease and Farrell have frequently been at pains to point out that for various technical reasons, RV is often undercounted, both in victimization surveys and in recorded crime data [see, e.g., Farrell and Pease, 1993:chap. 3; Farrell and Pease, 2007]. They have also recently argued that when such matters are taken fully into account, "victimization is even more concentrated on particular people and households" than the previous evidence had indicated [Farrell and Pease, 2007:49]. In drawing attention to such matters, Pease and Farrell are clearly motivated by a wish to make transparent what might reasonably be described as the *misery* of repeated victimization, and by a practical wish to alleviate that misery.

Second, Pease and Farrell are well aware of the skepticism regarding *boost* accounts of RV that was offered in the early 1980s by Richard Sparks [1981; see earlier] and separately by James Nelson [1980]. In an interesting comment on these authors in his 1998 monograph, Pease did not, as might have been expected, emphasize especially the subsequently discovered time-course issue, noted earlier; rather, he focused on the possibility of seeing "crime sequences as the unfolding of a relationship." In more detail:

* An alternative terminology is sometimes used in the RV literature, derived from standard terms in statistics. This contrasts "risk heterogeneity" (flag) with "state dependency" or "event-dependency" (boost); readers will find this terminology used in some quotations given later in this chapter.

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> What has changed since Sparks and Nelson were so scathing has been attention to crimes like domestic violence, embezzlement, sexual abuse of children and bullying. These offences are typically perpetrated as series of events, with a dynamic in which the consequences of offences early in the series may speed or slow the rate of offending, or halt it altogether. Having considered such offences, the notion that crime events against the same victim are dependent upon each other now seems less "far fetched." We are now much more likely to see crime sequences as the unfolding of a relationship. Being prepared to look at matters in this way through the example of domestic violence, we are now readier to recognise links between apparently one-off events like burglary and robbery. [Pease, 1998:14]

What is fascinating about these two further topics is that, as we will shortly see, both the "concentration [of victimization] on particular people and households" and the possibility of "seeing crime sequences as the unfolding of a relationship" constitute important issues within Hope and Trickett's critique [2004] of orthodox RV scholarship. It is to that critique that we must now turn.

In 2004, Tim Hope and Alan Trickett did not come fresh to the study of RV; both had contributed valuably to the developing literature on victimization, including RV [e.g., Osborn et al., 1996; Hope et al., 2001]. But they had become convinced that a different approach to some of the issues was necessary, and their article [Hope and Trickett, 2004, 2008] spells out reasons for this view.

First, Hope and Trickett [2008] consider that too little attention has been paid in the literature to the *relative rarity* of victimization: "There are many more non-victims than victims, and respondents reporting higher victimization frequencies are even rarer" [ibid.:38]. Second, and linked to the first point, they produce evidence that many victims are not long-term victims but, having been victimized, revert to their previous status of nonvictim; thus, as they put it, there might be a "*differential and decremental tendency towards immunity from crime risk*" (emphasis in original) in the general population [ibid.:46].* Third, the authors are very interested in the results reported by those who have investigated what they describe as the "double-hurdle" model of crime victimization; that is to say, what if anything distinguishes victims from nonvictims (first hurdle) and repeat victims from single victims (second hurdle)? In particular, the article by Osborn and others [1996]—for which both Hope and Trickett were coauthors—was seen to be of special interest; the analysis in that paper found "little evidence that repeat victims have distinctive characteristics compared with single victims" [ibid.:223]. Fourth and more technically, for statistical reasons, Hope

* For an earlier reference to "immunization" (or "once bitten, twice shy") in the context of victimization, see Biderman [1980:31].

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and Trickett were critical of the use of the Poisson distribution by some RV researchers and found themselves returning, for that and other statistical reasons, to Nelson's and Sparks's early analyses [1980 and 1981, respectively], noting, for example, that Nelson [1980:888] had found the negative binomial model "to be a very promising tool for understanding and analyzing multiple victimization."*

After a complex argument, Hope and Trickett ultimately describe their "general solution" to the many puzzles presented by the data on crime victimization as being "to posit two polar risk groups in the general population" [Hope and Trickett, 2008:38]. More fully:

> The general tendency over time in the population is towards immunity from crime victimization.... [T]here is a sizeable subgroup … that is more or less permanently immune from victimization, and … the most likely outcome from crime victimization is no further victimization over the longer term. Nevertheless, there is a non-negligible group in the population that would appear to suffer chronic victimization.

Comparing these conclusions with those of the orthodox account of RV, it seems—at least at first sight—that for Pease and Farrell, victimization begets victimization, but for Hope and Trickett it does not. Moreover, for Pease and Farrell, fast repeats are central, but Hope and Trickett place little emphasis on fast repeats. Finally and perhaps most importantly, Hope and Trickett explicitly challenge the focus on "boost" explanations that has been central to the crime prevention policies arising from the orthodox research tradition. They say instead that "while victimization may flag (indicate) differential risk, it would seem less likely, following the immunity model, that it serves to boost (cause) the likelihood of further victimization" [Hope and Trickett, 2008:54].

That this debate has practical consequences for crime prevention policy is clear. For example, after a study of repeat burglaries in the Netherlands (discussed more fully later in this chapter), Edward Kleemans [2001] concluded—in accordance with the understandings of much orthodox RV scholarship—that "prevention measures should be implemented as soon as possible after the event" to forestall fast repeats. More controversially, he added that "there's no need for permanent crime prevention" [ibid.:64] because the threat is short term and temporary. Pease and Farrell would, of

* As Hope and Trickett [2004:391] put it: "The Poisson model is regarded as appropriate for the statistical analysis of data that consist of a number of discrete events occurring over a fixed time interval, which reports of crime victimization incidents … would appear superficially to resemble. *The simple Poisson model assumes that successive events occur independently of each other over time at a constant rate*.... Yet neither Nelson (1980) … nor Sparks *et al.* (1977) … could describe the observed distribution of crime victimization frequencies using the simple Poisson model" (emphasis added).

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course, support the first part of this advice, but the second part goes against their "victimization begets victimization" thesis. For Hope and Trickett, by contrast, the first part of Kleemans's statement would seem to be doubtful (because of the "tendency towards immunity" and their skepticism about "boost" explanations); and while the second part is true for most victims, Hope and Trickett would argue that it damagingly understates the potential for chronic victimization of a minority of victims.

In a recent seminar presentation at the Centre for Criminological Research, University of Sheffield, Tim Hope [2007a; see also Hope 2007c] interestingly stated that an implication of his analyses with Alan Trickett is that criminologists and persons concerned with crime prevention should alter their preconceptions about RV. For many, he believes, the fast burglary repeat has become the perceived "standard case" of an RV incident. But in reality, he suggests, the standard case of RV is a continuing victimization, exemplified by a woman trapped in a relationship with a man who regularly practices violence within the home— and, he argues, some property crime revictimizations are exactly like this. Intriguingly, however—and unnoticed by Hope—something rather similar was already suggested a decade ago by Ken Pease [1998] in *Taking Stock* (see earlier in the chapter). Perhaps, therefore, there is greater scope for reconciliation between the two viewpoints than might at first be apparent.

23.3 Disentangling "Boost" and "Flag"

If we are to address seriously the controversy between the orthodox account of RV and the Hope-Trickett challenge, we will need a sound method of providing valid evidence for the existence of "boost" or "flag" effects.

According to Pease [2008:600], there are currently four main scholarly articles that have attempted to disentangle boost and flag effects in relation to offenses against individuals and households: they are Lauritsen and Davis-Quinet [1995], Osborn and Tseloni [1998], Wittebrood and Nieuwbeerta [2000], and Tseloni and Pease [2003]. There are technical differences in statistical method between these articles, but the general approach adopted is a sophisticated modeling of the probability of initial victimization of individuals or households, and then a process of testing whether the chances of a subsequent victimization are statistically affected by an initial victimization. Throughout these studies the focus is on the victim, with virtually no reference to the offender. As Pease notes, the conclusion of all but one of the relevant papers is that "both boost and flag accounts contribute materially to the phenomenon of repeat victimization" [Pease, 2008:600], although methodologically the studies are "bedevilled by the fact that one can't measure everything about a person or place, so that 'unmeasured heterogeneity,' that

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is, the existence of enduring differences that haven't been measured, makes conclusions difficult" [ibid.].

A further important paper in a similar vein examined a different kind of crime, namely, offenses (and other calls for police service) occurring in and around fast-food restaurants over a three-year period [Spelman, 1995]. Such establishments have a substantially greater crime incidence rate than do individuals or households, but the rate also varies considerably by establishment—some habitually have very high rates, some much lower. Spelman treated this long-term rate as a flag effect, but he was also able to identify some short-term boost effects. In this particular context, however, his analysis suggested that in explaining RV, the longer-term incidence rate was five times more important than were the boost events. Hence, in crime-preventive terms, "for this sample at least, long-term problem-solving" (or dealing with the reasons for high recurrent incidence rates at some locations) was argued to be "an appropriate response" [ibid.:366]. Spelman's article is important not only because it provides further evidence for the existence of a "mixed economy" of boost and flag effects but also perhaps because it provides an instructive contrast to Ken Pease's approach to RV issues. It will be recalled that Pease's self-described concern is to "spell out the evidence for boost explanations of RV, without ever losing sight of flag" [1998:9]; whereas Spelman's article could not unreasonably be described as the obverse of this (that is, providing strong evidence for flag, without losing sight of boost). But how far Spelman's results are generalizable to noncommercial contexts is, of course, a problematic issue.

Undeniably, the tradition of work summarized in the preceding paragraphs is very important. Nevertheless, it seems to us to omit a vital dimension. Hedström [2005] has in recent years usefully reemphasized the importance, when one develops social science explanations, of focusing on the *mechanism* by which the studied effect is produced. In the present instance, the studied effect is repeated victimization of a person or address, so what are the possible mechanisms? The *flag* approach to explanation essentially postulates that something about the victim or address is similarly attractive to different offenders, who need have no contact with one another, and who are not themselves influenced by their own previous offenses in choosing the next victim or target. By contrast, *boost* accounts explicitly postulate that something relating to Victimization 1 helps to trigger Victimization 2—for example, the realization by a burglar that entry was easy and that he left some stealable goods behind, or a tipoff by one offender to another that a particular household will by now have replaced the stolen goods. In other words, when viewed from within a "mechanism" perspective, the difference between boost and flag explanations lies centrally in *the perceptions of offenders*. This is, regrettably, a topic that has been researched only to a

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limited extent in the general context of RV,* and it is very rarely mentioned in the technical boost-flag literature. An exception to this is, however, to be found in the 1998 overview by Ken Pease [1998:10], who suggested that "the most persuasive and self-explanatory evidence [for boost effects] is to be found in offender accounts. Offenders who repeatedly target the same place or person can at least articulate why" [see also Pease, 2008:600]. In our view, this is a wholly correct observation. What it does not do, however, is to quantify the extent to which "boost" effects occur; it merely confirms that they do sometimes occur.

An implication of this line of argument is that in using any particular data set to test for apparent flag or boost effects, we always need to consider carefully how far the available data will provide evidence of, or a valid inference relating to, the key mechanisms of offenders' perceptions. We must also be cautious in dealing with any data set that does not directly include information on such perceptions—for most data sets do not.

The centrality of offenders' perceptions to the boost-flag debate does not, however, mean that victims' reactions to their victimizations are irrelevant in the explanation of RV. The clearest example of this point is perhaps seen in domestic violence situations, where the victim's reaction (e.g., passive submission, assertion of her rights and dignity, leaving home) is obviously of potential relevance to the likelihood of subsequent offending. This dimension of what he calls "victim's agency" has recently been valuably emphasized by Tim Hope [2007c], and it is easy to see that in a given RV explanatory context one might need to be aware of offenders' perceptions, victims' agency, and the interaction between them.

23.4 Repeat Victimization: The Longitudinal Dimension

It seems obvious that when studying RV, the inclusion of a significant longitudinal dimension is important, a point that was made nearly 30 years ago by James Nelson [1980:890]. The need for longitudinal analysis has more recently been brought into sharp focus by Hope and Trickett's arguments about "trends towards immunity" and the possible existence of a small group of long-term, chronically victimized people and households.

Yet most empirical studies of RV have used relatively short timeframes. In the United Kingdom, a particular reason for this has been that most RV analyses are based on the British Crime Survey (BCS), which for the most part asks its respondents to recall offenses of which they have been the

* For a summary of offender accounts to 1998, see Pease [1998:10–12]. In his various writings, including Pease [2008], Ken Pease especially emphasizes the value of the offender-based research by Ashton and others [1998].

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victims only over a 12-month period.* Moreover, there is no panel dimension within the BCS, so each sweep of the BCS recruits a different sample, and it is not possible to cumulate results from several sweeps for the same individual respondent. The National Crime Victimization Survey in the United States does embed a panel within its sampling strategy, but its approach to repeat victimization has been heavily criticized on other grounds (for a discussion, see Planty and Strom [2007]).

In principle, police-recorded crime data can be cumulated into a longitudinal data set, and in fact most of the RV research with a study period of more than a year is based on police-recorded data—as indeed is our own research, reported in the rest of this chapter. Nevertheless, there have been surprisingly few really long-term studies of victimization, and not all of these have fully exploited the longitudinal dimensions of their data. For example, despite the generally strong attention paid by the RV literature to the offense of residential burglary, we have been able to discover only three English-language analyses† of repeat victimization for residential burglary that (1) cover a period of four years or more and (2) are based on repeated data collections.‡ In order of publication, these are the following studies:

1. Polvi and others [1991]. A four-year study of residential burglaries in Saskatoon, Canada, based on a full police data set of such offenses for the final year of the study [1987], supplemented by a trawl back through police data for the three preceding years (1984–1986 inclusive) *for those addresses victimized in 1987 only.*

* There are two exceptions to this. First, some sweeps of the British Crime Survey have asked respondents who reported specific victimizations within the 12-month reference period, "Were any of these very similar incidents, when the same thing was done under the same circumstances and probably by the same people?" [see Chenery et al., 1996]. In principle, in answering this question respondents could also be referring to offenses outside the reference period. Second, and more significantly, the 1992 BCS asked questions about not only the reference year but also prior victimizations in the four years preceding the reference year. For an analysis of RV based on these questions, see Hope and others [2001].

† Recently, Dutch researchers have examined various aspects of victimization and revictimization using a nine-year data set on recorded crime for the Hague [see Bernasco 2008], but so far no general RV results have been published in English for the whole period.

‡ Wittebrood and Nieuwbeerta [2000] examined long-term victimization and repeat victimization, for periods of up to 25 years, in the context of a life-course analysis of a random sample of citizens; and they included burglary among the studied offenses. However, respondents were interviewed once only and asked to reconstruct their life histories, including victimization, retrospectively. The researchers were careful to build in various methodological checks, but in view of the known recall problems among respondents in victimization surveys, it seems unsafe to rely strongly on the data from this study that relate to distant periods. Similar comments apply to the "up to five years ago" victimization data collected by the 1992 BCS (see earlier note and Hope and others [2001]), although obviously the time period used in this study is shorter.

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2. Kleemans [2001]. A six-year study of residential burglary in Enschede, the Netherlands, based on full police data sets. However, the detailed analyses of RV are mostly restricted to the relationship between successive pairs of offenses, so that, for example, we are not told what proportions of dwellings that were victimized in the first two years were victims or nonvictims in the last two years.
3. Morgan [2001]. A five-year study of police-recorded residential burglary in a suburb in Perth, Western Australia, focusing especially on contrasts between two subareas with different crime rates. This study more fully exploits the longitudinal nature of the data but is possibly limited in its generalizability because of the small area studied (the suburb comprised only 1,000 dwelling units).

The nature of the available data for the Polvi and others [1991] study precludes examination of Hope and Trickett's "tendency to immunity" hypothesis. The other two studies will be referred to as the discussion proceeds.

23.5 The Present Study: Explaining the Data Set

The present study is based on a large data set of nearly 120,000 recorded crimes against households in the city of Sheffield, in the United Kingdom, for the period from April 1998 to August 2006 inclusive, a period of 101 months. Thus, it spans a much longer time period than most RV research, and it does so using data for the whole of a large British city.

In more detail, the data set comprises a total of 118,558 offenses, in four offense categories:

1. Burglary or attempted burglary in a dwelling (52,267 offenses)
2. Burglary or attempted burglary in a garage, shed, or outhouse, where a residential address was listed as the offense location, but excluding garages housing commercial vehicles and the like (22,066 offenses)
3. Theft or attempted theft in a dwelling (3,981 offenses)*
4. Criminal damage relating to a dwelling, excluding arson, but primarily damage to the structure of the dwelling itself (40,244 offenses)

The British Crime Survey also uses the category of household offenses, but this includes offenses against vehicles, which we have deliberately omitted in order to concentrate the analysis. It is also worth noting that our definition of

* In English law, *theft in a dwelling* differs from *burglary in a dwelling* because in burglary offenses the offender is required to be a trespasser, whereas in theft offenses that is not the case. Hence, *theft in a dwelling* refers to offenses where the offender was in the dwelling with the householder's permission (e.g., theft by a visitor or by a tradesperson).

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criminal damage to the home is relatively restricted and excludes damage to garages and sheds unless they were on the same plot of land as the dwelling.

It is well established in the criminological literature [see, e.g., Maguire, 2007] that considerable care must be taken in interpreting police-recorded crime data because of the potential biases created by (a) the nonreporting of offenses by the public to the police (including differential reporting of different offenses), and (b) the nonrecording by the police of offenses reported to them by the public (including differential recording of different offenses). In the present instance, we have little relevant data on police recording practices (though see later), but we have extracted information from the 2005–2006 British Crime Survey data set on the national rates of reporting of different offenses to the police by the public. For the offenses in our study, these reporting rates are as follows: residential burglary, 67%; garage/shed burglary, 51%; criminal damage to the home, 38%; and theft in a dwelling, 36%. Thus, the reporting of an incident of residential burglary is nearly twice as probable as the reporting of criminal damage or theft in a dwelling, and these differences need to be borne in mind in interpreting the data.

Figure 23.1 shows graphically the counts for the four offenses over the 101 months of the study. The offense count for all four offenses taken together was broadly stable. Within this total, however, residential burglary decreased

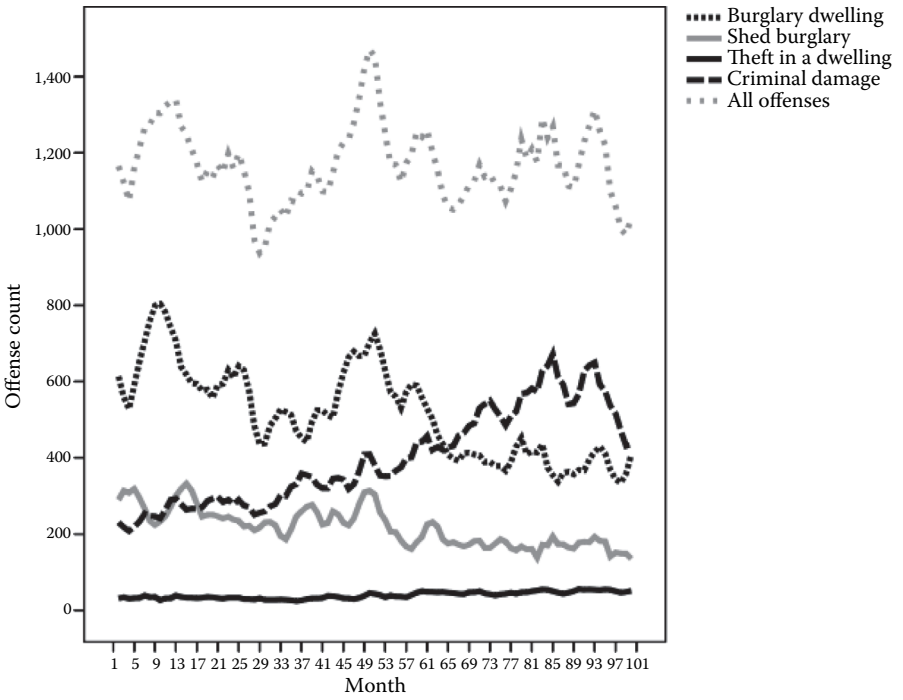


Figure 23.1 Counts of recorded offenses across the study period.

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(reflecting national trends in both recorded crime and BCS data), whereas criminal damage increased from about 2002, very possibly as a result of changes to the national police recording standards, which from 2002 required a more inclusive approach to the recording of more minor offenses [see Maguire, 2007:260–61].

It is important to note that researching RV using a recorded crime data set is a very different undertaking than if one uses a crime survey such as the BCS. The principal difference is that crime survey researchers can collect full demographic and social data on respondents and their households, but a recorded crime data set contains no information at all about nonvictimized households and minimal social information about victimized households. To partially overcome these deficiencies, the present study uses relevant small-area data from the 2001 National Census, so we can link crime data to some social information about the communities where victims live. On a more positive note, when using recorded crime data one has access to some information that is not available in crime surveys; and hence, for example, in the final part of this chapter we are able to utilize data on detected offenders to test whether the same offenders are involved in successive victimizations.

23.6 Repeat Victimization: Basic Data

Table 23.1 provides basic data on victimization and repeat victimization for the offenses in this study over the whole 101-month research period. As regards repeat victimization, the raw data are sufficiently detailed for us to be able to identify repeats to specific households over the whole research period, though not whether the residents in that household have changed during this period.

Section (a) of Table 23.1 includes data for all four offenses combined, while sections (b) and (c) of the table provide specific data for the two most common offenses (residential burglary and damage to the home). As noted earlier, there are some important technical differences between these two offenses (a differential reporting rate by the public to the police, different time-trends over the study period, and a likely difference in relation to the 2002 change in recording standards); hence, if on a specific matter a similar result is obtained for both offenses, other things being equal, this increases one's confidence in the validity of the result.

Those conversant with the literature on RV will recognize that the data in Table 23.1 display a familiar picture of marked disparity between households in the extent of their victimization [see, e.g., Farrell 1995; Pease 1998]. For example, taking all offenses together (Table 23.1a), two-thirds of Sheffield households had no household offenses at all recorded by the police during this period of eight and one-half years—a large degree of immunity. On the

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Table 23.1 Repeat Victimization for Household Offenses in Sheffield, UK, April 1998–August 2006

Number of occasions household was victimized	Whether household was victimized	Percentage of victimized households only	Percentage of offenses
(a) All household offenses			
0	67	—	—
1	22	67	41
2	6	19	24
3	2	7	13
4+	2	6	22
	100	100	100
	(N = 217,618)	(N = 72,871)	(N = 118,206)
(b) Residential burglary			
0	82	—	—
1	14	79	60
2	3	15	23
3	1	4	9
4+	0.4	2	8
	100	100	100
	(N = 217,618)	(N = 39,779)	(N = 52,172)
(c) Damage to home			
0	88	—	—
1	9	73	47
2	2	16	20
3	0.7	6	11
4+	0.7	6	21
	100	100	100
	(N = 217,618)	(N = 26,054)	(N = 40,111)

other hand, 2% of the households suffered 22% of all the offenses recorded in the study—a large degree of misery. Among specific offenses, this bipolar pattern was particularly marked in the case of damage to the home (Table 1c).

Criminologists working in socio-spatial criminology have developed an analytically very useful set of concepts for distinguishing different aspects of crime in a given geographical area over a given period. These are incidence, prevalence, and concentration, explained as follows:

- *Incidence*, or the total crime rate in the area per 1,000 population or per 1,000 households
- *Prevalence*, or the proportion of persons or households victimized for a given crime or crimes, regardless of whether they are once-only victims or repeat victims during the study period

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- *Concentration*, or the average number of victimizations suffered by each victim during the study period

When studying repeat victimization, it is particularly valuable to consider the *concentration rate* and the *prevalence rate* for areas. The concentration rate is, of course, a direct measure of RV, while the prevalence rate is statistically independent of concentration (whereas incidence = prevalence × concentration). Previous RV studies (beginning with Trickett and others [1992]) have found that areal prevalence and concentration rates are positively correlated; that is, as the crime prevalence rate for an area increases, so does the average number of victimizations per victim. In the present study, this result was strongly replicated when all household crimes were considered together (the correlation between prevalence and concentration was 0.80, $p < 0.001$), and also for the two most numerous offenses in the study, residential burglary and damage to the home (respectively, $r = 0.78$ and 0.84, both $p < 0.001$). Interestingly, however, the other two offenses showed less strongly correlated patterns (shed/garage burglary $r = 0.22$, $p < 0.001$; theft in a dwelling $r = 0.01$, n.s.). In the case of shed and garage burglaries, it was also found that the geographical patterning of the victimizations was very different from the other offenses. Whereas for all other offenses in this study there was a strong negative correlation between the income level of the area and the incidence of household offenses (ranging from 0.50 in the case of residential burglary to 0.88 for damage to the home), such a correlation was completely absent for shed and garage burglaries. This is a finding that would merit fuller investigation on another occasion.

Finally, in assessing the basic features of RV for household offenses in this data set, we considered how prevalence and concentration rates varied over the eight years of the study period. As Table 23.2 shows, for all crimes taken together, during the period the prevalence rate declined slightly while the concentration rate rose slightly. Residential burglary showed a

Table 23.2 Prevalence and Concentration Indices, Years 1–8 (Year 1 = 100)

	All Household Crime		Residential Burglary		Damage to Home	
Year	Prev.	Conc.	Prev.	Conc.	Prev.	Conc.
1	100	100	100	100	100	100
2	97	100	89	99	114	102
3	86	100	77	98	115	102
4	94	101	82	99	136	103
5	101	103	90	99	153	107
6	87	105	63	100	177	108
7	89	107	60	98	207	112
8	91	107	56	98	220	112

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particularly interesting pattern, with a steep decline in prevalence but virtually no change in concentration (a pattern similar to that shown in the British Crime Survey during this period; see Hope [2007b]). Criminal damage, by contrast, showed a doubling in the prevalence rate, but a more modest change in concentration.

Having thus set out some of the basic features of RV in this data set, we can turn more directly to the issues raised in Hope and Trickett's article [2004].

23.7 Replicating the Hope-Trickett Analysis

Empirically, the most important section of Hope and Trickett's work [2008] is their reanalysis of the victimization data from an earlier research report coauthored by Janet Foster and Tim Hope [1993]. Among the data collected for this earlier project were before-and-after household crime surveys with a panel element (conducted in 1987 and 1990), where the main original purpose of the data collection was to measure changes in victimization between the two study years in an experimental area and a control area. The purpose of the reanalysis was to compare the 1987 and 1990 victimization data for these areas in order to test three hypotheses arising from Hope and Trickett's postulated "immunity model." These hypotheses were (i) that there is a general *trend toward immunity* over time, regardless of initial victim-state; (ii) that a significant subgroup in the population appears to be *immune* from victimization in that they are not victimized in either 1987 or 1990; and (iii) that there is nevertheless a *chronic* group in the population who are repeatedly victimized over time. Using the Foster and Hope data, all three hypotheses were supported [see Hope and Trickett, 2008:46–51].

Using recorded crime data (rather than crime survey data as in the Foster-Hope study), we are able to retest these hypotheses in the present analysis, but with two improvements—namely, (1) a substantially longer follow-up period than the three years available in the Foster-Hope data set, and (2) a substantially larger numerical sample. We tested the hypotheses by comparing victimizations in the first three years (1998–2001) and the last three years (2003–2006) of our study period, using two-way tables (see Table 23.3) similar to those used in Hope and Trickett's analysis [2008:49]. In brief, all three of the Hope-Trickett hypotheses were again supported both for all household offenses (Table 23.3a) and for residential burglaries and damage to the home (Tables 23.3b and 23.3c). Taking all household offenses together, for example:

1. Re Hypothesis (i): 82 percent of singly victimized households at Period 1 were not victimized at Period 2; and this was even true of two-thirds of those households that had been repeatedly victimized at Period 1.

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Table 23.3 Comparison of Households' Victimization in the First Three Years (1998–2001) and Final Three Years (2003–2006) of the Study Period

	Period 2			
Period 1	Not Victimized	Single Victim	Repeat Victim	Total
(a) All Household Offenses				
Not Victimized	160,799 *(87.2%)*	19,031 *(10.3%)*	4,511 *(2.4%)*	184,341 *(100.0%)*
Single Victim	22,016 *(82.2%)*	3,468 *(13.0%)*	1,303 *(4.9%)*	26,797 *(100.0%)*
Repeat Victim	4,430 *(68.4%)*	1,409 *(21.7%)*	641 *(9.9%)*	6,480 *(100.0%)*
Total	187,177 *(86.0%)*	23,918 *(11.0%)*	6,455 *(3.0%)*	217,618 *(100.0%)*

Note: Chi square = 2,705.4 (df = 4), $p < 0.001$.

(b) Residential Burglary				
Not Victimized	188,455 *(94.7%)*	9,517 *(4.8%)*	1,035 *(0.5%)*	*198,997* *(100.0%)*
Single Victim	14,665 *(90.8%)*	1,300 *(8.0%)*	191 *(1.2%)*	*16,156* *(100.0%)*
Repeat Victim	2,117 *(85.9%)*	259 *(10.5%)*	89 *(3.6%)*	2,465 *(100.0%)*
Total	205,227 *(94.3%)*	11,076 *(5.1%)*	1,315 *(0.6%)*	217,618 *(100.0%)*

Note: Chi square = 981.1 (df = 4), $p < 0.001$.

(c) Damage to the Home				
Not Victimized	197,245 *(94.1%)*	9,807 *(4.7%)*	2,563 *(1.2%)*	209,615 *(100.0%)*
Single Victim	5,720 *(84.0%)*	697 *(10.2%)*	391 *(5.7%)*	6,808 *(100.0%)*
Repeat Victim	804 *(71.3%)*	179 *(15.9%)*	144 *(12.8%)*	1,127 *(100.0%)*
Total	203,769 *(93.6%)*	10,683 *(4.9%)*	3,098 *(1.4%)*	217,618 *(100.0%)*

Note: Chi square = 2,797.1 (df = 4), $p < 0.001$.

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2. Re Hypothesis (ii): a total of 160,800 households—nearly three-quarters of all the households in Sheffield—had no recorded victimizations for any household crime in any of the six years comprising Period 1 (1998–2001) or Period 2 (2003–2006).*
3. Re Hypothesis (iii): nevertheless, victimization at Period 2 was very significantly more probable for those who were victimized at Period 1 ($P < 0.001$). There is even a small group of 641 households (0.3% of all households in Sheffield) that were repeat victims both within Period 1 and within Period 2. This tiny group of households suffered 3.8% of all the offenses on the police register throughout the 101 months of the study period, and they averaged over seven victimizations per address in this period. Clearly, therefore, they may reasonably be described as "chronic" victims, in the language of Hope and Trickett.

Thus, this empirical analysis strongly supports all the key features of the Hope-Trickett analysis, though using a different kind of data than theirs (recorded crime rather than a household survey) and with one of the longest follow-up periods yet used in RV research. These results clearly suggest that Hope and Trickett's immunity thesis should be taken very seriously by all researchers interested in RV.

We turn now to another facet of the Hope-Trickett analysis, namely, some questions raised by what they describe as the "'double hurdle" approach, mentioned earlier in the chapter. In his small Australian longitudinal study, Frank Morgan [2001] drew attention to some intriguing results when he compared the data for two subareas, with differing overall burglary rates, within the Perth suburb that he was researching. Morgan noted, first, the apparently greater "importance of repeat burglary to victims in low-burglary rate areas relative to their expected risk," and, second, the fact that "burglary victims from high- and low-risk areas appear to converge in their likelihood of future burglary when compared with their burglary-free neighbours" [ibid.:99]. He further noted that these results were consistent with earlier findings by Osborn and others [1996], which appeared to suggest that "protection against subsequent victimization is reduced in low-risk households, and that differences in overall or initial risk shrank for repeat victimization" [Morgan, 2001:112]. Hope and Trickett regarded these data as constituting an important, if somewhat puzzling, element within the overall framework of results available to criminological researchers on RV.

The Sheffield data allow for the first examination of these issues with a large sample of recorded crimes, so we will consider the empirical findings before commenting on this aspect of Hope and Trickett's overall argument.

* Additionally, as Table 23.1 shows, the great majority of these households (67% of all households, rather than 74%) also had no household crimes in the intervening 29 months (2001–2003).

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Relevant data are given in Table 23.4, where for analytical purposes we have divided the areas of the city into quintiles based on the incidence of the relevant crime(s) being considered—that is, the incidence of all household offenses in Table 23.4a, residential burglary in Table 23.4b, and so on. The first column shows, for the various different offenses, the probability of a given household being victimized for the relevant offense(s) within the first two years of the study period (i.e., the prevalence rate, or "Hurdle 1"). The second column shows the probability of such a victimized household becoming a repeat victim at any time during the 101-month study period after the initial victimization ("Hurdle 2").

Naturally, the data for Hurdle 1 show a declining prevalence rate as one moves from the highest crime rate quintile (Quintile 1) to the lowest (Quintile 5). Less obviously, the same pattern is repeated for Hurdle 2, though here the proportionate gap between Quintiles 1 and 5 is, as in the previous studies, consistently smaller than in the equivalent data for Hurdle 1. It follows that, as column 3 of the table shows, the ratio of the revictimization rate to

Table 23.4 The "Double Hurdle" Model Applied to Area Quintiles for the Relevant Offenses

Quintile	Hurdle 1: nonvictim to victim	Hurdle 2: victim to repeat victim	Ratio Hurdle 2: Hurdle 1
(a) All household offenses			
1 (High)	0.190	0.576	3.037
2	0.141	0.478	3.391
3	0.098	0.402	4.111
4	0.075	0.328	4.373
5 (Low)	0.014	0.256	17.964
(b) Residential burglary			
1 (High)	0.131	0.421	3.205
2	0.081	0.331	4.091
3	0.049	0.236	4.808
4	0.036	0.161	4.470
5 (Low)	0.022	0.128	5.710
(c) Damage to home			
1 (High)	0.063	0.473	7.555
2	0.030	0.320	10.849
3	0.015	0.201	13.070
4	0.010	0.160	16.250
5 (Low)	0.005	0.090	19.228

Note: *Hurdle 1* refers to a victimization for the relevant offense at some point in the first two years of the study period. *Hurdle 2* refers to an initial victim in the first 24 months subsequently becoming a repeat victim (at any time in the study period).

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the initial victimization rate is consistently greatest in the low-crime areas; and therefore, exactly as in Morgan's Perth study, the data show the greater "importance of repeat burglary to victims in low-burglary rate areas *relative to their expected risk*" [ibid.:99, emphasis added]. In short, therefore, the patterns of recorded crime data in Sheffield on this issue are similar indeed to those found by Morgan and, earlier, by Osborn and others.

In their paper, Hope and Trickett [2008] reconsider the Morgan and the Osborn and others findings after they have presented their overall thesis about immunity. In this concluding discussion, they suggest that the data for low-rate areas might be "interpreted as a hypothetical prediction of what might happen *if* victimization occurs to breach immunity and *if* no action is taken to restore it. In other words, *if* both of these were to happen, then the probability of victimization would be raised considerably—people who were hitherto immune would then come to resemble chronic victims" [ibid.:54; emphases in the original]. Perhaps this is so. But Hope and Trickett also note an alternative explanation for the data, namely, that they might reflect "unmeasured event-dependency" [ibid.]. In our view, this second possibility is the more likely, though to explain why, we need first to consider the Sheffield data on fast repeats.

23.8 The Time-Course of Repeat Victimization

Having examined some of the main issues raised by Hope and Trickett, it is now appropriate to assess how far the Sheffield data support some of the claims of the more orthodox school of RV researchers. Here we concentrate especially on Pease's summary [1998:3], in which, as previously noted, he claimed that

> victimization is the best single predictor of victimization … when victimization recurs it tends to do so quickly … a major reason for repetition is that offenders take later advantage of opportunities which the first offence throws up.

A central issue raised by this statement is, clearly, the time-course of RV, and in particular the extent of "fast repeats." Unfortunately, however, there are technical problems in presenting valid data on the time-course of RV, especially when using data sets covering a short overall timespan. This is because, with time-limited data sets, it is often difficult to secure uniform follow-up periods for all the victimizations—thus early victimizations can receive a longish followup, but later victimizations often require truncated followups. To avoid these difficulties, we have measured the RV time-course for the Sheffield sample by including only households that were first victimized in the first four years of the study, and we have then followed up each victimized

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household for a standardized period of four years from the first victimization. Figure 23.2 shows the resulting distribution of the time period between the first and the second victimizations. The pattern shown is rather similar to that found in many earlier studies [e.g., Polvi et al., 1991; Farrell, 1995; Kleemans, 2001]—that is, a sharp peak in the early months of the follow-up period, followed by a gently declining curve thereafter. However, in this particular graph the slope of the curve is less steep than in some other studies.

But is the apparent message given by the time-course data perhaps artefactual? Spelman [1995:368–69] has usefully pointed out that time-course graphs of the sort shown in Figure 23.2 could be generated even if "there were *no* changes in risks [of revictimization] over time and all locations ran identical risks" (emphasis in original). The reason for this is because

> the number of victims eligible for revictimization drops steadily over time. Everyone is eligible for revictimization during month 1; some proportion (say, 10 per cent) are revictimized, leaving 90 per cent of the original sample available for victimization in month 2; 10 per cent of the remainder is 9 per cent; and so on. [ibid.:369]

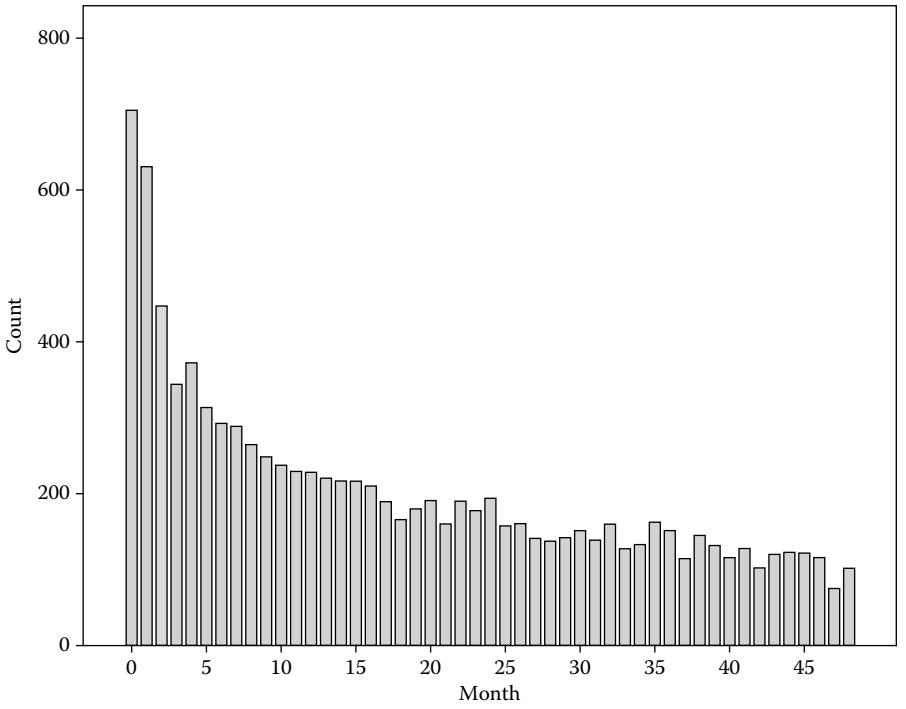


Figure 23.2 Time-course of second victimizations over a standardized four-year period (all household offenses). Data show the number of complete months between the first and the second victimization for any household offense.

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However, in the present instance, the total number of households is so large (217,618)—relative to the counts shown in Figure 23.2—that the shape of the curve changes very little if one corrects each month's data to exclude previously victimized households from the denominator. Thus, for example, the revictimization rate in Month 1 is 704 out of 217,618 households, or 3.2 per 1,000 households; in Month 2 it is 631 out of 216,914, or 2.9 per 1,000 households; then by Month 6, the corrected rate has dropped to 1.5 per 1,000 households, and by Month 12 to 1.1 per 1,000. In short, there is no doubt that there is a strong "bunching" effect of RV for household offenses in the months immediately after the first victimization.

It is at this point that the previously discussed issue of mechanisms becomes central to the discussion. As Wim Bernasco [2008] has pointed out, it is certainly possible to construct hypothetical scenarios for flag explanations of fast repeats—for example, a family might go on holiday (perhaps in a blaze of local publicity), leaving their house vulnerable for a limited period, an opportunity that various offenders independently accept. And perhaps this kind of thing really does sometimes happen (criminologists have not systematically investigated the matter). But despite such examples, it is surely impossible to believe that flag is the dominant explanation for fast repeats, given the size of the effect and its consistency across research projects. Given these facts, some linkage between the first and second events seems inescapably likely to be the main explanation—and "linkage" implies boost rather than flag. For these reasons, it is rather disappointing that Hope and Trickett [2004], who as we have seen tend to minimize the significance of boost explanations, say so little about the time-course of RV.

The overall thrust of our arguments to this point is, therefore, that in developing our overall understanding of RV, we should take seriously both fast repeats and the "immunity thesis," including its emphasis on long-term chronic victimization. But how do these two phenomena relate to each other? This is an almost totally unexplored question within the RV literature. One possible hypothesis is that "chronic victims" are a separate group, continually victimized, and that the fast repeats tend to occur predominantly to other households, with less frequent victimizations. We tested this hypothesis on the Sheffield data, with results as shown in Table 23.5. Households with a minimum of two victimizations were first differentiated according to the total number of household offenses they had suffered during the whole 101 months. Then, only those households first victimized within the first two years were selected, and the proportion of such households revictimized within 30 days was calculated. (This test was deliberately designed so that the "fast repeat" data were independent of the "total number of victimizations" data). As may be seen, a statistically significant result was obtained, but one that was in the reverse direction from the "separate phenomena" hypothesis that we had constructed. Instead, households with a large number

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Table 23.5 Time Patterns for Revictimizations after a First Victimization within the Initial Two Years of Study Period, Differentiated by Total Victimizations in the Study Period (All Household Offenses)

Total victimizations in Study Period	% of included households revictimized within 30 days of first victimization	No. of households
2	4.8	5,933
3	7.5	2,940
4-5	9.3	1,761
6+	13.8	803
All	6.8	10,987

Note: Chi square = 120.9 (df = 3), $p < 0.001$.

of victimizations over the study period were statistically *more* likely also to suffer a fast repeat when they were first victimized: the two phenomena coincided. A possible reason for this convergence is that multiply victimized households tend to be located in high-crime and socially deprived areas and that offenders also often live in such areas [see, e.g., Craglia and Costello, 2005]; hence, it is easier for offenders to select chronically vulnerable households because they know the area and they can also, as elsewhere, follow up with fast repeats. However, this is largely speculative because such processes have not yet been researched.

The foregoing discussion considers time-course issues from the point of view of the victim. What happens if we switch the focus and instead consider the viewpoint of the offender?

Pease's contention is that "a major reason for repetition is that offenders take later advantage of opportunities which the first offence throws up" [1998:3]. His assumption, at least for household offenses, is clearly that the same offenders return to the scene; and there is indeed interview-based evidence from offenders that they sometimes do this [see reviews in, e.g., Pease, 1998:10–15; Bernasco, 2008]. A recorded crime data set with the ability to link offense and offender data allows a direct statistical test of the "same offender" hypothesis, and Bernasco [2008] has recently used a nine-year data set on detected burglaries in The Hague to conduct such a test. His conclusion is that pairs of detected burglaries that are close to one another in time are much more likely to involve the same offender(s) than are other burglaries.*

We carried out a similar test on the Sheffield data as regards the time-course of RV, though in doing so we were, like Bernasco, aware of potential research pitfalls arising from the fact that detection rates for these offenses

* Bernasco [2008] reached a similar conclusion about burglaries that were close to one another "in space." This raises the issue of so-called near-repeats, an important topic that has recently attracted significant research attention, but that is beyond the scope of this chapter.

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are low—in the case of the offenses in the Sheffield data set, overall 14%—and that this necessarily to an extent complicates the interpretation of the results. With this caveat, our results were in fact very similar to those of Bernasco (see Table 23.6). There was a striking difference, for example, between the median time lapse for pairs of detected offenses where the same offender was involved (median = 2–3 months) and for pairs that involved different offenders (median = 19–20 months). This adds to the evidence suggesting that there might well be a difference in the appropriate explanation for fast repeats and for slower repeats. It is also worth noting that overall, less than half of the detected pairs of offenses (668 out of 1,450, or 46.1%) involved the same offender returning.

In light of all the evidence, from the Sheffield study and other studies, how far can Pease's summary [1998:3] still be said to be valid? Let us break the summary down into its three component parts, but this time in reverse order from the original:

1. "A major reason for repetition is that offenders take later advantage of opportunities which the first offence throws up." This claim is partly true, but it is predominantly true for fast repeats rather than slower repeats (Table 23.6).
2. "When victimization occurs it tends to do so quickly." As we have seen, there is substantial empirical support for this claim. On the other hand, we should not neglect the fact that there are also significant numbers of slower repeats (in Figure 23.2, for example, 71% of all the repeats occur six months or more after the first victimization). Moreover, Hope and Trickett claim, and Table 23.3 shows, that there is a small group of victims who are continually victimized. Although they too suffer fast repeats (Table 23.5), an exclusive crime-preventive focus on the fast repeat would fail to capture the real misery of their situation, which is the chronic character of their victimization.

Table 23.6 Detected Pairs of Revictimizations: Time-Course Comparisons (All Household Offenses)

	Same Offender for Both Offenses	Different Offender
Median Time-Lapse	2.0	19.0
Modal Time-Lapse	0.0	3.0
Mean Time-Lapse	6.8	26.7
N	668	782

Notes: Mann-Whitney test for comparison of means, $U = 100{,}934.0$, $p < 0.001$.
Data were calculated as complete months of time elapsed between the two detected offenses, e.g., a two-week period is coded as 0, and a 10-week period as 2.

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3. "Victimization is the best single predictor of victimization." Let us immediately leave aside the question whether it is the best predictor and concentrate on whether it is a *significant* predictor. From what has been said here, it is clear that it is a significant predictor for fast repeats. But what about the longer term? Given the data in support of the immunity hypothesis, it might seem that victimization is not a continual predictor of revictimization. In fact, however, as Table 23.7 shows, with each successive victimization there is an enhanced probability of subsequent victimization, so Pease's [1998] summary is correct. The reason the data support both Pease's claim *and* Hope and Trickett's immunity hypothesis lies in the relatively low proportions of revictimizations. It is only after the third victimization in the sequence that a majority of victims are revictimized, and by then we are dealing with only 1.5% of the households in Sheffield.

In short, then, Pease's summary [1998], in all its three aspects, is accurate for fast repeats but rather less accurate for the longer term. In this, it contrasts markedly with Hope and Trickett's analysis, which is strong on longer-term issues but virtually ignores fast repeats. A main conclusion of the present analysis must therefore be that the criminological community needs a better synthesis between these different research approaches.

Finally, we return to the issues raised in the previous section concerning Morgan's observation about the greater "importance of repeat burglary to victims in low-burglary rate areas, relative to their expected risk" [2001:99]. At the end of our previous discussion, we quoted Hope and Trickett's somewhat complex and conditional ("if … if …") conclusions on this matter, but we noted that they also posited a possible alternative explanation, that of "unmeasured event dependency" (or boost). In the light of the discussion in the present section, it seems to us that this alternative explanation has substantial merit. Fast repeats, which can predominantly be attributed to boost

Table 23.7 Cumulative Probabilities of Revictimization for Any Household Offense

	N	% of all Sheffield Households*	% of Previously Victimized Households†
A. First victimization within 24 months	24,188	11.1	—
B. Second victimization by 48 months	6,942	3.2	28.7
C. Third victimization by 72 months	3,235	1.5	46.6
D. Fourth victimization by 96 months	1,900	0.9	58.7

* N for all Sheffield households = 217,618.

† I.e., the N shown in the relevant row expressed as a percentage of the N of the previous row (e.g., in Row B, 6,942 ÷ 24,188 = 28.7%).

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explanations, do occur. Although they occur more frequently to chronically victimized households in high-crime-rate areas, they also occur in low-rate areas. Given that the overall crime rate is, by definition, lower in such areas, it should not be surprising if the risks of (especially) fast repeats make the risk ratio for a further offense jump more sharply from Hurdle 1 to Hurdle 2 in low-crime areas than it does in high-crime areas.

23.9 Concluding Discussion

As previously noted, our analysis, and the exploration of the Sheffield longitudinal data set, has led to the conclusion that there are substantial merits both in orthodox RV scholarship, exemplified especially in the work of Pease and Farrell, and in some of the challenges to that scholarship in the work of Hope and Trickett [2004]. But both approaches also seem to have blind spots. The obvious way forward seems to be to combine the positive merits of each approach in a creative synthesis.

23.9.1 Types of Repeat Victimization

We suggest that a central feature of such a synthesis should be a clear recognition that RV is not, on the available evidence, a unitary phenomenon but, rather, occurs in very different ways in different contexts. To help researchers and crime prevention practitioners to understand this diversity, it will be valuable to follow the lead of Max Weber and to construct some "ideal types" of RV, recalling that for Weber ideal types are "exaggerated or one-sided descriptions that emphasise particular aspects of what is obviously a richer and more complicated reality, but whose very unreality aids us in disentangling the different elements" that are contained in the complexity of the real world [Kronman, 1983:7].

On this basis, at least three ideal types of RV can usefully be distinguished. The first type can be described, in Ken Pease's words [1998:14], as a crime sequence within which is embedded the unfolding of a relationship. Pease's examples of this type of RV include "domestic violence, embezzlement, sexual abuse of children and bullying." In effect agreeing with Pease on this point, Tim Hope [2007a, 2007c] has suggested that one of Hope and Trickett's two "polar risk groups," namely, the chronic victims, can be seen as being analogous to the victims trapped in abusive domestic relationships. Researchers, in fact, currently know very little about households that suffer long-term victimization for household crimes (see later), but one telling statistic from the present study is perhaps relevant to this discussion. Of the 641 households that were repeat victims in both the first three years and the last three years of the study period (see Table 23.3), no fewer than 53% also

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had a household member who at some point in the eight years of the study was identified in police files as being an offender. This is a very high proportion and suggests that chronic victims might often be embedded in some of the complex relational networks of friendship, resentment, and retaliation that earlier studies of "offenders as victims" have noted [see Lauritsen and Laub, 2007].

But by no means all repeat victimization, even of the chronic type, is necessarily relational. Earlier, we gave as an example the relatively affluent household in a deprived area suffering from vehicle crime. Similarly, such households might experience repeat victimizations for household crimes, for flag reasons, with no necessary relationship between the victims and the multiple offenders who choose their house as a target. A concrete example of this type of RV is the vicarage (priest's house) in a deprived area, which is often perceived by other residents, rightly or otherwise, as being relatively affluent and for which there is evidence of above-average victimization levels.

Both of the first two ideal types of RV are long term; but as we have seen, RV does not have to be long term. A third ideal type of RV would therefore be the fast repeat in a low-crime area. As it happens, one of us (AEB) has personal experience of this kind of RV: at the time, his house was in a low-crime, semirural area, happily existing in a state akin to Hope and Trickett's permanent immunity. But a burglar took advantage of a short absence on holiday, and then within two weeks (and despite the family's return) tried the same modus operandi again.* Thereafter, however, the house reverted to its traditional state of immunity. There was certainly nothing relational about these events, although there was, obviously, what Tim Hope [2007c] has described as "victim's agency" in response to the first victimization.

It seems clear to us that these three different ideal types of RV all exist—and there might also be other ideal types worth describing. Naturally, however, in the real world the types will sometimes overlap.

Oddly, very little attention has been given in the RV literature to differentiating types of RV—certainly nothing like as much attention as has been given to the issues raised by boost and flag accounts. Yet arguably, the differentiation of types of RV is the more important of these topics, because the different types seem to require both different *explanatory accounts* (an intellectual task) and different *crime prevention strategies* (a practical task). As noted here, in our view a much fuller discussion of the different types of RV is the best way to take forward the creative research synthesis that is now clearly needed.

* AEB remains grateful to the then rather new RV literature, which had alerted him to the possibility of a fast repeat. This led to the rapid installation of additional security, which foiled the burglar's attempt to get into the house on the second occasion. It is good to know that criminological analysis can sometimes have valuable practical consequences in everyday life.

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23.9.2 Implications for Future Research

As regards future research, the most glaring research gap to have emerged from the analysis in this chapter is the serious lack of research into long-term repeat victimization for household offenses. The reasons for this are not difficult to uncover: orthodox RV scholarship has focused on the statistical importance of the fast repeat (see Figure 23.2) and its crime prevention implications, and the full significance of longer-term repeats has emerged from research analyses only in the recent past. Hence, we know that our first two ideal types of RV (i.e., long-term relational and long-term flag) both exist, but we currently know very little in detail about them, nor do we have any way of estimating their relative size. Additionally, if one adopts a mechanism-based approach to explanation [Hedström, 2005], then offenders' accounts of RV must be of central importance (as noted earlier); but the limited amount of research into offender accounts of RV has hardly considered longer-term RV. This topic, then, should be a serious priority for future research attention.

23.9.3 Implications for Crime Prevention

In a recent article, Farrell and Pease [2006] have reviewed the research evidence on programs designed to prevent repeat residential burglary. Using rigorous standards for the evaluation of research, they concluded that on present evidence, the most successful preventive efforts are "context specific," use multiple tactics, have strong implementation, and are focused on high-burglary-rate situations [ibid.:173]. The authors also note ruefully that "the evidence regarding preventive effectiveness is quite sobering in light of the significant progress that has been made in the more general empirical investigation of the nature of repeat residential burglary and repeat victimization" [ibid.:175]—in other words, RV analysis has been better than RV preventive practice.

Among the other issues raised in this article by Farrell and Pease [2006], one is perhaps worth special mention, especially given the clear statistical evidence that RV for household crime is disproportionately concentrated in poor areas:

> It is clear that a key issue relating to implementation is: who pays for prevention equipment? The evidence suggests that victims are often unable or unwilling to invest in additional security even when warned of increased crime risks. [ibid.:174]

But in the light of the discussion in this chapter, it seems that this issue is a little more complex than Farrell and Pease indicate in this quotation, for much may depend on the long-term victimization prospects.

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If a household has very limited resources and is told, after a first burglary that there is a heightened short-term risk of repeat victimization, but the risk of such a second victimization is less than 30% and that even if they are revictimized, there is then a 53% probability of immunity over the succeeding two years (see Table 23.7), they might well decide to accept the initial risk of revictimization. If, however, on the best risk assessments (for which data are not yet available), it looks as if the household might be in serious danger of becoming a "long-term chronic" victimized household, then the cost-benefit analysis might look very different.* Thus, in light of the analysis in this chapter, it seems that there is a strong case for some rethinking, not only of our understanding of RV but also, perhaps, of some of the conceptual foundations of our preventive policies.

Acknowledgments

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* Of course, also, the fact that "long-term chronic" revictimizations are most likely to occur in the most deprived neighborhoods will be a highly relevant consideration for policy.

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Conclusion

SHLOMO G. SHOHAM AND PAUL KNEPPER

The *International Handbook of Criminology* is meant to be read along with the *International Handbook of Victimology* [Shoham, Knepper, and Kett, 2010] and *International Handbook of Penology and Criminal Justice* [Shoham, Beck, and Kett, 2008]. There are chapters in each of these volumes that relate directly to topics and themes addressed in this book.

In the *International Handbook of Victimology*, Andromachi Tseloni and Ken Pease take a fresh look at the connection between property crimes and repeat victimization. This extent of repeat victimization has yet to be appreciated owing to counting conventions in victimization surveys (which understate the extent) and to a central (but underappreciated) dynamic of offending that can be seen in burglary. They set out approaches to statistical modeling of crime rates that reflect known facts of repeat victimization and make use of one of these, negative binomial modeling, to clarify risk and repeat victimization. The thrust of this analysis seeks to understand the drivers of victimization by deploying models capable of measuring risk concentration. "It is difficult to overstate the importance of this analysis," they explain. "If more generally true, it means that overall crime rates are generally responsive to rates of repeats." One of the primary goals of policies in liberal democracies is to allocate resources to need; without understanding the concentration of victimization, however, this becomes impossible to achieve.

K. Jaishankar presents the findings of a study of communal violence victimization using geographic information (GIS) systems. The study looks at Coimbatore City, located in southern India, to explore patterns of communal rioting during 1997–1998. Although rooted in the disharmony between Hindus and Muslims, the problem is more complex than a clash of values. The results of the GIS analysis show that victimization patterns vary with sociodemographic characteristics. The problem of local communal violence is significantly related to the gender, age, and religion of victims. The results of the study are of use to local government in charting police patrol and prevention activities. They are of use to criminology—all the patterns observed are consistent with routine activities theory—and they are of use to victimology in identifying directions for future research. The results suggest that crimes of communal violence tend to be more brutal and divisive than conventional crimes committed by individuals.

Marilyn Clark discusses the links between substance abuse and offending and between substance abuse and victimization. Both issues

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have been the subject of research for some years although they appear as separate issues involving discrete literatures; researchers examine substance abuse in relation to *either* offending or victimization. Clark presents both phenomena using the same conceptual framework, followed by an explanation of both phenomena within a multidisciplinary and multicultural perspective. She reviews research for Europe, the United States, and Australia concerning trends in drug and alcohol use, substance abuse in offender populations, substance abuse and victimization, and alcohol and sexual violence. Overall, this evidence supports the general observation that substance abuse, crime, and victimization are interrelated.

Rob Mawby, Elaine Barclay, and Carol Jones deal with the issue of tourism and victimization. Criminologists have overlooked tourism as a topic worthy of investigation partly because existing sources of data do not allow tourists to be identified as victims. Nevertheless, researching the relationship between tourism and victimization is important because it can inform practitioners in the tourism industry and contribute to theory in victimology. They review levels of risk identified in victimology and apply these to tourist victims, followed by a look at explanations of these levels of risk in relation to tourist victims. They also present four case studies to illustrate how the "average tourist" can be understood and how risk levels can be explored for identifiable groups of tourists. Overall, they aim not only to review the literature but also to introduce criminologists to a fertile area for research that has received so little attention.

Sanja Milivojevic and Sanja Ćopić engage myths and realities surrounding victims of sex trafficking. Trafficking in people, and particularly women for sexual exploitation, has been described as "modern-day slavery" by antitrafficking campaigners. At the same time, researchers and policymakers have been criticized for buying into "trafficking hype" by antitrafficking campaigners. Based on surveys on trafficking in people within Serbia and Australia, they identity prominent discourses around women victims of trafficking. Specifically, they examine the language of judges, prosecutors, lawyers, activists allied with nongovernmental organizations (NGOs), scholars, and policymakers whose work involves this area. Milivojevic and Ćopić spotlight the ways in which perceptions of victim status are tied to gender and feminity. In Serbia, women victims of trafficking tend to be seen through two sharply contrasting discourses of "blaming the victim" and "ideal victim"; media representations of women trafficked for sex as well as dominant narratives of international organizations and NGOs diffuse and reinforce this duality. "It is essential," they conclude, "that the multiple identities of women trafficked for sex are acknowledged, that women's victimization in the context of various forms of subordination and oppression is given a voice."

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Michelle Butler and Paul Cunningham examine the fear of crime in the Republic of Ireland. Fear of crime is a difficult concept to define. They explain how the concept originated in the United States and why it became an issue of public concern in Ireland. Based on their survey research, they examine fear of crime and its impact on quality of life. They point out that fear of crime varies by particular social variables, particularly gender, age, and locality, and they call for further research to clarify why women are more likely to fear crime, whereas residents of Dublin and small towns are less likely to do so. It is also important to investigate the role of media in influencing public perception of crime and, consequently, shaping the fear of crime and its impact on quality of life. Media portrayals may alert individuals to the need for precautionary measures but also, where these portrayals are inaccurate, contribute to an inflated perception of risk.

Walter S. DeKeseredy takes up violence directed at women. Violent abuse of women by intimate males constitutes a worldwide health problem on a scale that has been described as a "war on women." DeKeseredy aims to "help give a voice to groups of women who, for the most part, suffer in silence." He pursues a definition of the phrase "violence against women" and explains why much of it remains invisible within conventional crime statistics. He explains the challenges of gathering data on male violence against female intimates and discusses two widely read theoretical paradigms. He concludes with reflection on progressive policies. Although efforts to end violence against women will be met with resistance, and forms of gender inequality across societies will never disappear, it is important to engage crime prevention and control strategies that are already known to be effective. These can be coupled with other means of furthering communication about the extent and severity of violence victimization of women.

Manuel Madriaga and Rebecca Mallett prise open discussion about the relationship between disability and notions of criminality and victimhood. Their chapter combines insights from the discipline of disability studies with that of critical victimology. They review recent debates within disability studies around conceptualizing disability and then spotlight the failure of this literature to address criminalization and victimization of disabled people. They address, in turn, the failure of victiminology and criminology to take into account changing conceptions of impairment and disability. Madriaga and Mallett go on to tackle the persistence of biological normalcy, or "everyday eugenics," in creating and perpetuating cultural images of disabled people. The representation of disable people as *either* villains or victims tells much about the position of disabled people as an oppressed minority. As they point out, incorporating a "Disability Studies consciousness" within victimology and criminology represents a positive step toward empowering disabled people to rewrite their own definitions.

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Carla Machado, Ana Rita Dias, and Cláudia Coelho explore wife abuse as a cultural problem. While many researchers in victimology would acknowledge the importance of culture in this regard, culture has seldom been translated into scientific research. They examine the awareness of the cultural dimension of wife abuse and unpack the concept of culture as a guide to research. They review theoretical perspectives about the links, including attitudinal, ecological, feminist, and multicultural approaches. Next, they provide a systematic overview of research in this area, identifying anthropological and prevalence studies. Before examining the meaning of "culture" in theory and research, they assess cultural competency and professional responses to victims. "Understanding [the] complex dance between structure and culture, and their transformations along time is, in our perspective, the next main challenge for researchers in the area of wife abuse."

In the *International Handbook of Penology and Criminal Justice*, there are several chapters dealing with crime prevention. Steven P. Lab's chapter defines crime prevention as any action designed to reduce the actual level of crime, the fear of crime, or both. He identifies three levels of crime prevention. Primary prevention identifies conditions within the physical and social environment that afford criminal activity. Secondary prevention engages in early identification of potential offenders and seeks to intervene to thwart crime. Tertiary prevention deals with actual offenders and involves intervention intended to reduce the probability of subsequent criminality. In dealing with primary prevention, Lab outlines the modern environmental design approaches, neighborhood crime prevention, general deterrence, and social crime prevention. When describing secondary prevention, Lab explains the need to accurately predict future offending, goes on to survey the methods of situational crime prevention, and reviews studies of community policing. He gives special attention to the issue of drugs and crime prevention.

David P. Farrington and Brandon C. Walsh provide an overview of early intervention as a means of crime prevention. They identify programs for preventing delinquency and youth violence shown to be effective in rigorous evaluation research. These programs aim to interrupt the beginning of criminal potential within individuals, especially by targeting risk factors. The author specifically review risk-focused, family-based, school-based, and multicomponent prevention programs. They conclude, "There is good evidence that early family and school interventions—such as general parent education, parent training, child skill training, teacher training, and anti-bullying programs—can be effective in reducing later delinquency and youth violence. The time is ripe to mount a large-scale evidence-based integrated national strategy for the reduction of crime and associated social problems, including rigourous evaluation requirements, in all countries."

Marcus Felson provides an overview of situational crime prevention. Situational crime prevention grew out of a series of experiments by researchers

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within the Research Unit at the British Home Office during the 1970s. Felson outlines the principles behind situational crime prevention and gives a number of key examples: preventing property crime, handling trouble on double-decker buses, preventing criminal use of telephones, preventing car theft and motorcycle theft, dealing with subway graffiti, and using lighting. Felson's chapter also contains extensions of situational crime prevention to crimes of violence, fraud, and repeat victimization. "Situational crime prevention," Felson insists, "offers a broad repertoire for preventing crime here and now, rather than there and eventually. It is verifiable, clear, simple, and cheap."

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